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**ABSTRACT** Proceedings from 1979 House of Representatives hearings on P.L. 94-142, the Education for All Handicapped Children Act, include statements and prepared statements of 36 special educators, attorneys, administrators, state level officials, parents, and representatives of professional associations. Statements examine the achievements and effects of the law, touching upon issues such as placement, personnel preparation, individualized education programs, preschool services, least restrictive environment, funding, and authorization levels. (CL)

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OVERSIGHT OF PUBLIC LAW 94-142--THE  
EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

Part 1

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

HEARINGS HELD IN WASHINGTON, D.C., ON SEPTEMBER 27;  
OCTOBER 9, 11, 18, AND 24, 1979

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# OVERSIGHT OF PUBLIC LAW 94-142--THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

## Part 1

THURSDAY, SEPTEMBER 27, 1979

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SELECT EDUCATION,  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m. in room 2261, Rayburn House Office Building, Hon. Paul Simon (chairman of the subcommittee) presiding.

Members present: Representatives Simon, Beard, Miller, Stack, Coleman, and Erdahl.

Staff present: Thomas L. Birch, counsel; Judith L. Wagner, staff director; Sylvia Corbin, executive secretary; and Diane Cregger, secretary.

Mr. SIMON. The Subcommittee of Select Education will come to order.

This is the first in a series of hearings we are having on Public Law 94-142, the Education for All Handicapped Children Act.

Ultimately, the test of whether we are a civilized society is not how we respond to the rich and powerful, but how we help those who need an opportunity in our society. Public Law 94-142 is a major step forward in the right direction.

In our series of hearings we are looking for criticisms, recommendations, observations on how the law should or could be improved, or if changes are desirable.

First, we will take the panel of John Siepp, educational consultant of the United Cerebral Palsy Association, accompanied by Kathleen Roy; Patsy Poche, president of the Louisiana Epilepsy Association, and Edward Akerley on behalf of the National Society for Autistic Children.

I am going to ask Edward Akerley who is 12 years old to be our first witness, and if you don't mind, we will hear from you first.

**STATEMENT OF EDWARD AKERLEY, ON BEHALF OF THE NATIONAL  
SOCIETY FOR AUTISTIC CHILDREN, ACCOMPANIED BY MARY S.  
AKERLEY**

Mr. AKERLEY. All right.

Mrs. AKERLEY. May I introduce my son first?

I am Mary Akerley, past president of the National Society for Autistic Children and now the staff director of our Society's National Affairs Department.

Our witness today is my son whose remarks will illustrate how Public Law 94-142 can work if it is sensitively implemented.

I am introducing him because I think some knowledge of his background will make his testimony more meaningful for you.

Until he was 3, his only mode of communication was screaming. Until he was 5, he fled in wordless, uncomprehending terror from such gentle things as raindrops and small animals. He did not play with toys like other children until he was 7. His behavior in public was unpredictable and frequently embarrassing. In short, in less enlightened times he would most likely have had to be institutionalized.

He has had lots of help: medical, social, educational. My husband, who is here today, and I, believe the last was the most significant. His first 7 years of school were in private programs, all publicly funded.

I believe this kind of intensive help was absolutely essential, just as is the opportunity for him now to be in a less restrictive setting, a program for students with learning disabilities in our neighborhood public school.

The decision to move to public school was his and he was right. His courage and persistence, even when things did not go smoothly, tell us something about the importance of letting people take risks in order to grow. His statement is reproduced exactly as he wrote it in our written testimony, which we request be made part of the record.

Mr. SIMON. It will be entered in the record at this point.

[The prepared statement of Edward Akerley follows:]

PREPARED STATEMENT ON BEHALF OF THE NATIONAL SOCIETY FOR AUTISTIC CHILDREN BY EDWARD M. AKERLEY

Mr. Chairman and members of the subcommittee, my name is Mary Akerley. I am a past president of the National Society for Autistic Children and am now the staff director of the Society's National Affairs Department. Our witness today is my son, whose remarks will illustrate how Public Law 94-142 can work if it is sensitively implemented.

I am introducing him because I think some knowledge of his background will make his testimony more meaningful for you. Until he was 3, his only mode of communication was screaming; until he was 5, he fled in wordless, uncomprehending terror from such gentle things as raindrops and small animals; he did not play with toys like other children until he was 7; his behavior in public was unpredictable and frequently embarrassing—in short, in less enlightened times, he would most likely have had to be institutionalized. He has had lots of help—medical, social, educational; my husband who is here today and I believe the last was the most significant. His first 7 years of school were in private programs, all publicly funded. I believe this kind of intensive help was absolutely essential, just as is the opportunity for him now to be in a less restrictive setting: a program for students with learning disabilities in our neighborhood public school.

The decision to move to public school was his, and he was right. His courage and persistence, even when things did not go smoothly, tell us something about the importance of letting people take risks in order to grow. His statement is reproduced exactly as he wrote it in our written testimony, which we request be made part of the record. You will see that the child who once couldn't hold a pencil now writes very legibly, who once couldn't put two words together intelligibly now produces pages of coherent narrative, who once could not bear unfamiliar surroundings has taught himself to use public transportation.

We are pleased to have this opportunity today to present to you one of the young people whom you have helped so much.

ABOUT SCHOOL

I went to Hillcrest when I was three. Sometimes, I used to run away after eating lunch, sometimes I got into serious trouble for that. Also, I used to beat

up the kids over there which was bad, when I did a bad thing again, sometimes Mr. Stoddard pinned me to the floor, I screamed a cried when being pinned I did not like being pinned at all, I had art before, then once I ran off then came back, then the teacher said do not leave the art room, then I worked, later I was still there someone said why are you sitting in the art room? After I was at Hillcrest, then I switched to Christ Child, I was in group 1, then after a few days I went into group 4 when Tammy was in my class, and when I was on the playground with my class, sometimes, I had Tummy chasing me around the play-ground which I was having fun being chased. Sometimes we went on some field trips to Washington, one day when we were there I went to the top of the Washington Monument with my class on the last day Michelle and Tom had to move. Then John and Susan were my teachers, after Susan, I had Marty for a teacher. One day I wanted to go to a public school to be with normal kids and do what the normal ones did. Then I told mom I wanted to walk or ride a bus.

Before I switched to a public school, sometimes I had therapy, with Mrs. West then Mrs. Gerstein I had a talk with John Marston about going to a new school to be with normal kids, Marty has heard about it too. When I was still at Christ Child after recess I watch the electric Company. When John had a talk with Birt Lones about me leaving Christ Child, Birt wanted me to come back after a Summer Vacation. So I had to go back to Christ Child for a while for Birt to see if I was ready then by close to Christmas I was a new boy at Denn Avenue School. On some days when I was at Denn Avenue for half, I went to Christ Child for the afternoon. Sometimes I stayed a full day. Mrs. Siegel was my teacher. A boy named Eric who had so much trouble learning when he was mad, sometimes it cracked me up of making me laugh. I tried not to laugh and tried to be more normal even if it was a joke about Eric. Then next year I was in Mrs. Kugler class. At the beginning of the year Jean Edeson teased me which I did not like. Chris and Jerome were in my class. Nathaniel was in my the beginning only because he was having trouble being good. So it was lot's of fun in the class, so our teacher gave us winnie the Pooh Coloring books, they were more like fun. I did work first then when it was finished I colored in my Winnie the Pooh Book. Winnie the Pooh was my favorite one because I was young. So I made up about Pooh in a race car I took some hot wheels cars to school before to play when work was done. Sometimes then I even used to read Clirous George to Chris then. Sometime they picked on me a little bit.

Then when there were not enough students. So we had switched to Forest Grove. So I worked hard the next year. Miss Burroughs was my teacher. I was teased before then they acted nice to me. Then at school at Holloween party I was dressed up like a girl wearing lip-stick and one of my sisters dresses. So I liked the kids at school, later before Christmas my teacher got married to a man named Mr. Shaw. So then my teacher had her last name changed to Shaw. And sometimes I had speech before so I liked it. By the end-of September I went to Mar in ridge with the six grade with four corners school kids too. I had a good time except being teased by some kids which I did not like. Maybe that they thought they were more important. I saw a girl named Michelle Osborn. She had long hair thats why I thought she was good looking. Next year I stayed there for one more year. Sometimes that last year at school I got picked on again, so when mom heard of it she said do you want to go back to a private school? I said no. May be the kids made themselves feel more important. So I worked hard every day. One day mom took me to two Junior High Schools. Then she took me to Eastern. Then she took me to Key. Then when before school was out, I picked Eastern because I thought it will be the best. So in Summer I had Orientation for four days at the New School. I like it a lot because it has nice Special-Eds. When I was in seventh grade I had trouble with Geography.

When I had trouble with Geography because it was a little hard. I got a failure notice that I did poorly. I had to study more. After having Art with Mr. Fierstein, I went to Homeck. In the Sewing Class there was too much confusion. I was being teased by two boys taping hitting me on my head with pencils. So Mr. Hedderman finally pulled me out of there. So I went back to having art with Mr. Fierstein. Back in the art class there was no teasing. After art again I went back to sewing. Then there was no teasing. A girl in my sewing class was nice to me by helping me thread the machine and doing my sewing. Her name is Terri Gals. I made a pencil case and a Gym bag. After sewing I had cooking. Mrs. Avey was our teacher then. I am good friends with Terri.



Gala. About these two boys who caused the trouble should have got pulled out of there. Their names are Kevin & Timmy. I was not bad, they were. I should have stayed in that class. I was not trying to cause trouble in sewing. Mostly in my work I did pretty good which Mr. Hedderman said. By the next year I went to eighth grade. I have Music 1st Period and second I work on two tapes in phonics and some days language. At third I have Gym. At fourth I have science about Land Animals. Then I have lunch. After lunch I have math. After math I have reading. After reading I have Geography. After Geography I go home when the bell rings. I ride a bus to school how I still.

Ed Akerley's story is the strongest statement we can make in support of Public Law 94-142. It is a good law; it is not always well implemented. Our formal statement will focus on two areas where, at least for youngsters with autism, most problems seem to occur.

#### PLACEMENT

The misconception that autism is an emotional disorder persists and is in fact exacerbated by BEH's unfortunate insistence on categorizing it as such in the regulations. The problem is compounded when a state or school district relies on canned programming for the sake of expediency. It is easier to place a child into an already existing program, based on a diagnostic label, than it is to program for him individually. The results for autistic children are often disastrous—and completely contrary to the intent of the law.

Most classes for children with emotional handicaps are based on the belief that the students are normal learners whose psychological, usually environmentally induced, problems interfere with their behavior to such an extent that real learning cannot occur. The usual intervention is therefore primarily psychiatric in orientation: psychotherapy, a supportive milieu, an often permissive approach to "acting out." Not only are such techniques totally ineffective for the autistic child, they can be actually harmful.

Autism could be regarded, at least for educational purposes, as the direct opposite of emotional disturbances. Autistic children cannot learn in any normal fashion; and it is this inability to learn which causes their deviant behavior, not the other way around. Consequently, they require a program which utilizes specialized educational strategies (such as task analysis) in a highly structured setting. The psychotherapeutic approach has been proven ineffective by several studies; the reason has become increasingly obvious as medical research has identified several areas of neurological dysfunction underlying the disorder. However, the National Society for Autistic Children files contain ample evidence that students with autism are being placed in classes for emotionally handicapped students. Although the parents appeal such decisions, they are not always successful; school authorities cite the regulation and past practice, outdated though that may be. Even when it becomes obvious that the placement is actually harming the child, the authorities do not relent; instead they find ways to punish the parents for being troublesome.

Joseph, 11 and severely autistic, lives with his parents in a southern Virginia city, where he has attended several day programs. The most successful was one designed for mentally retarded children (i.e., the accommodation was to learning rather than psychiatric problems). The time did come when the teacher felt that in order to keep Joseph in her class, she would need additional help. Joseph was evaluated and the recommended placement was a special program for autistic children based on the old psychiatric model, the only such one was residential, and some distance from the family home. Nevertheless, the parents consented to a trial placement. Joseph regressed and the parents brought him home. They were told that the only possible day placement was a class for emotionally handicapped children; once again they were willing to try. And once again Joseph regressed. But this time was worse: there were personality changes as well. The once docile, happy child had become hostile and aggressive. When Joseph's mother visited the classroom everything seemed fine (she could only visit on a prearranged basis), but finally a teacher's aide gave her the clue she needed: Joseph was routinely chained to a chair. Mrs. S. quite rightly felt her son would be better off with no program and decided to keep him at home. The state promptly charged her with violating the law; they insisted Joseph needed residential care; she maintained he did not, only an appropriate day program. The battle dragged on for over a year. The family finally won but only after hiring a lawyer and forcing BEH to investigate. Huge sums of money and

nearly three years of a human life have been wasted in the process, where, ironically, the family was asking for a program (the MR class with an additional teacher or aide) which cost far less than either of the two totally inappropriate ones the state was attempting to force on them.

Three years ago, Andrew then six, was making good progress in a special public program in Michigan. It was designed for autistic children and included such appropriate related services as speech therapy. Last year the therapy was dropped when the therapist became ill, the school system refused to replace her, and Andrew's parents were forced to provide this service themselves at considerable personal expense. At the end of the school year the officials decided to discontinue the autistic program entirely and place Andrew in a traditional E.I. classroom. The parents immediately requested a hearing and were finally forced to hire an attorney to overcome the school's delaying tactics. When a decision was finally handed down six months later in favor of Andrew's earlier type program, it and the results of a recent evaluation were ignored. Instead Andrew was given a "trial placement" in the E.I. class. He began showing medical symptoms of stress; he stopped eating and developed a heart murmur. Faced with a program that was not only educationally inappropriate but actually life-threatening, Andrew's parents kept him home. The school system has consistently thwarted their attempts to obtain due process but has sued them for truancy!

Andrew's life was threatened but Zandy's was actually taken because of his state's callous disregard of the intent of the law. He lived in Delaware where children with autism are routinely placed in a very expensive—and highly inappropriate—psychiatric residential facility. Because psychiatric services are considered "medical," the SEA does not pay that portion of the costs; the parents are expected to. However, most insurance policies do not extend full coverage for mental illnesses. As a result, Zandy's parents ran up a huge debt to the state. Finally Delaware removed Zandy because of the unpaid bills and placed him in a state institution for the retarded. It was probably understaffed for its intended population—it clearly was for Zandy. During an outdoors recreation period, he wandered off, unobserved, into the near-by woods. He was found four days later, mired in mud, dead of exposure. There was evidence that he had been alive for at least two of those days, possibly three.

Several questions come to mind, none of them answerable. If a state determines a certain type of program is appropriate, what right does it have to force parents to pay for it, especially when the parents themselves say it is not appropriate? Why would a state insist on very costly inappropriate programs, when the correct, more effective placement often costs considerably less? We do not believe the fault is in the law, because it has no provisions which would allow these atrocities. We believe the problems stem from misunderstandings, inertia and budgetary difficulties at the implementation level. For example, last December the Bureau of Education for the Handicapped issued a memo of clarification on the regulations: the categorization of children by handicap was solely for the purposes of the required child count and was not to be used for programming. We published this information in our national newsletter. This was apparently the only source of that information to some public school professionals; we received inquiries from staff persons in two states because they could not get information from their education officials.

Our Information & Referral Service conducted a survey this spring to determine how states were programming for their autistic pupils. Of the 41 states which responded, 32 did not distinguish autism from emotional disturbance in state regulations or by laws, and seven admitted they considered it a psychogenic disorder and developed programs and placed children accordingly. However, we are aware of other states which program this way; perhaps their reluctance to acknowledge it is due to the source of the survey.

As a result, NSAC has developed a "White Paper on the Definition of Autism Under Public Law 94-142"; it is attached to this testimony.

#### MAINSTREAMING

This term has become a sort of verbal Rubicon, separating good guys from bad. Of course, which is which depends entirely on individual bias; because Mainstreaming per se is neither a panacea nor a lethal weapon.

We listened attentively to witnesses at the Senate Oversight Hearings this summer. Their conflicting views on mainstreaming, as parents and as teachers, indicated that both the concept itself and its application under Public Law 94-

142 are still misunderstood. Ed Akerley's statement does highlight the mainstreaming dilemma and also suggests a solution, one which is actually written into the law but not always enforced.

Public Law 94-142 requires that the parents and, where appropriate, the handicapped student participate in the formulating of the IEP. One of the decisions which has to be made is that of placement. And here it is very, very important that the student's preferences be taken into account.

When Ed indicated he had enough of private school, that he wanted to be with normal children, the learned professionals in the Montgomery County School System went into a state close to panic. Everything from the larger classes to riding the school bus was going to be "traumatic." If he and his parents insisted on a public school placement it would have to be in an EH Classroom with psychotherapy—on the outside and naturally, at the family's expense. Fortunately, the family had identified an LD Class in a near-by school with a vacancy and a willingness to try. The school system compromised with "half-hearted" mainstreaming: gradual introduction to public school. So, for nearly four months, Ed Akerley had to go to two schools every day, the worst possible arrangement for a child whose educational handicap demands consistency in management.

Nonetheless, as you saw today, he has survived—"thrived" might be a better word. Now "mainstreamed," he has told you of his problems—nearly all social—and of his still strong preference, in spite of them, for the most normal environment. He, more than any of the "decisionmakers" in his world, knows the reality of public and private school and which is now best for him. There are other Eds who are not listened to; they are ignored and their parents' "participation" in the IEP is limited to signing an already completed form. If professional pre-set opinions on who can and cannot be mainstreamed are allowed to prevail, we may as well drop the "I" from IEP. If students and their families are listened to and their recommendations followed, there will, of course, be mistakes made; just as there are when "experts" make all the decisions. But they will be normal errors based on normal desires to grow, with the risk-taking that requires; not artificial traps based on someone else's limited expectations for another human being.

We must also deal with teachers' fears that they cannot handle handicapped children in their classrooms. Some of that fear is legitimate; the one great flaw in Public Law 94-142 is its lack of provision for training of regular classroom teachers and of support personnel. Even when a teacher is willing to try, he/she must be taught what to expect, what are realistic goals. One young teacher, after completing her first year with an artistic child in her classroom, and doing a very good job, had to be consoled by the student's mother when she indicated she felt she had failed because the child still wasn't behaving or learning normally.

One of the Senate witnesses described her deaf child's public school experience as "the most restrictive environment possible." In his "deaf school" all the children signed and his world, although silent, was essentially normal. In "normal" school he was isolated by his deafness. Does this mean he should not have been mainstreamed? Or does it mean the school personnel and his classmates should have been taught to sign? This was how placement of a deaf girl was managed in a Northern Virginia public school. Her classmates thoroughly enjoyed the experience and carried it over to junior high school, where the young lady's mainstreaming successfully continues.

We hesitate to suggest amendments to the law as solutions to the problems we have discussed. We agree that "Hard cases make bad law." We do believe that enforcement must be more rigorous, and that rigorous enforcement will eventually lead to acceptance of the principles on which the law is based. Until that happens, we must find no excuse acceptable for compromising the right of every child to appropriate education in the least restrictive environment.

#### WHITE PAPER ON THE DEFINITION OF AUTISM UNDER PUBLIC LAW 94-142

##### *The problem*

Children and youth who have autism are categorized as "seriously emotionally disturbed" in the Federal regulations governing implementation of Public Law 94-142 (Federal Register, August 23, 1977).

##### *The law*

Public Law 94-142, the Education for All Handicapped Children Act, is legislation passed by the U.S. Congress and signed into law by President Gerald R. Ford on November 29, 1975. The "94" indicates that this law was passed by the



94th Congress. The "142" means that it was the 142nd law passed by that Congress.

Purposes of Public Law 94-142 are to:

Guarantee special education to all handicapped children and youth who need it.

Assure fairness in decision making regarding the provision of special education.

Establish clear management and auditing requirements and procedures regarding special education at all levels of government.

Financially assist state and local governments, with Federal funds, in their efforts to provide special education (CEC, 1977).

In short, the law mandates a "free, appropriate education at public expense" for all handicapped children, regardless of the severity of their disability (Closer Look, 1979).

*Who are handicapped children, under the law?*

Public Law 94-142 defines handicapped children in nine categories: Mentally retarded, hard of hearing, deaf orthopedically impaired, other health impaired, speech impaired, visually handicapped, seriously emotionally disturbed, or children with specific learning disabilities who, by reason thereof, require special education and related services.

No one of these categories is an appropriate place for children and youth with autism. A separate category, "autistic," is called for (Akerley, 1976, 1977; NSAC Board of Directors, McClelland and Sullivan, 1978).

The category of "seriously emotionally disturbed" is the least appropriate category for children and youth who have autism, in terms of:

An accurate description of the disability (Rivto, 1976; Rivto and Freeman, 1977).

The historic abuse of parents by a psychogenic theorists (Eberhardy, 1976; Rimland, 1971).

Categorical educational program methodology (Sullivan, 1978).

Ability to hold educational agencies accountable for service delivery mandated by law (Akerley, 1976; Warren, 1979).

Besides the list of categories, Public Law 94-142 requires, as indicated above, a free, appropriate, public education for all handicapped children and youth—whether or not they are covered by these categories (emphasis ours).

Further, the free, appropriate public education clause means, for example, that:

"Mainstreaming," and/or

Categorical special education

may or may not be required for an individual handicapped child or youth depending on the individual needs of that child or youth. In other words, the needs of a handicapped child are the basis upon which the law requires a "free, appropriate, public education" to be delivered. Thus, categorical modes of education may or may not be "appropriate" for an individual's "free, public education" but must be provided if they are.

*The regulations.*

Federal regulations are rules that are made by the federal agency which is designated to administer a particular program mandated by federal law. These regulations are designed to clarify the intent of the law and govern the way in which programs mandated by the law are put into operation.

While they are not made by elected officials, federal regulations, nevertheless, have the force of law.

Programs to educate all handicapped children are mandated by Public Law 94-142, which is an amendment to Part B of the Education of the Handicapped Act. These programs are administered by the Bureau of Education for the Handicapped (BEH) of the Office of Education (OE) of the U.S. Department of Health, Education and Welfare (HEW). The address of the Bureau of Education for the Handicapped (BEH) is 400 Maryland Ave. S.W., Washington, D.C. 20202.

The regulations for Public Law 94-142 were formulated by the Bureau of Education for the Handicapped and were published in the Federal Register, Vol. 42, No. 163, on Tuesday, August 23, 1977. They became effective on October 1, 1977.

*How do the regulations define autism?*

Unlike the law, the regulations for Public Law 94-142 define handicapped children in 11 categories. There is no separate category for autism, however the

term "seriously emotionally disturbed" includes "children who are schizophrenic or autistic." This is the only mention of autism in the regulations. "Seriously emotionally disturbed" is defined as follows:

The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

(A) An inability to learn which cannot be explained by intellectual, sensory or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed (sic).

First, let us compare the characteristics of "seriously emotionally disturbed" against the characteristics of autism as set forth in the Definition of the Syndrome of Autism" (Ritvo and Freeman, 1977) and its lay version, "A Short Definition of Autism."

Item (A) does not apply, since, in autism, inability to learn is explained by:

1. *Intellectual factors* ("On IQ testing, approximately 60 percent have scores below 50, 20 percent between 50 and 70, and 20 percent greater than 70. Most show wide variations of performance on different tests at different times.")

2. *Sensory factors* ("The symptoms are caused by physical disorders of the brain. They include: Abnormal responses to sensations. Any one or a combination of sight, hearing, touch, pain, balance, smell, taste and the way a child holds his body are affected.")

3. *Health factors* ("Autism occurs by itself or in association with other disorders which affect the function of the brain such as viral infections, metabolic disturbances, and epilepsy.")

Item (B) is largely appropriate, except that it does not take into account the extreme forms of the syndrome: Those children with autism who do develop satisfactory interpersonal relationships, and those on the other end of the spectrum who engage in "the most severe forms of self injuries, repetitive, highly unusual and aggressive behaviors (that are) persistent and highly resistant to change..."

Item (C) is largely appropriate with exceptions as noted in the paragraph above.

Item (D) does not apply. "A pervasive mood of unhappiness or depression" is not a discrete characteristic of autism.

Item (E) does not apply. It is possible for a child with autism to have these tendencies for the same reasons that other children without autism may have them. However, "no known factors in the psychological environment of a child have been shown to cause autism."

Thus, only two of the five characteristics of "seriously emotionally disturbed" apply more than marginally to children with autism: and these two:

Do not apply to children with either mild or extreme forms of the syndrome, and

Are not appropriate statements of similar characteristics which do apply to children with autism.

In short, fitting autism into this definition is rather like putting a square peg into a round hole.

Further, it can be logically assumed that children and youth with autism were placed in this category because those who wrote the regulations were influenced by the psychogenic theory of autism. This theory, endorsed by Bettelheim and others, asserts that autism was caused by poor parenting and/or a harsh emotional environment. This theory holds that autism is, in fact, a serious emotional disturbance.

Now, let's take a look at the categories of handicapped children defined in the law, and the categories of handicapped children defined in the regulations, which have the force of law. As noted above, nine categories are listed in Public Law 94-142 while 11 are defined in the regulations. The difference is the addition, by decision of the Bureau of Education for the Handicapped (BEH), of "deaf-

blind" and "multi-handicapped." Thus, a clear precedent has been established for the inclusion of low-incidence disabilities (through the rule-making process and not by legislative action) that do not appear as categories in Public Law 94-142.

For more information, contact the National Society for Autistic Children, Suite 1017, 1234 Massachusetts Avenue, N.W., Washington, D.C., 20005, (202) 783-0125.

Mrs. AKERLEY. Thank you.

You will see when you look at it that the child who once couldn't hold a pencil now writes very legibly, who once couldn't put two words together intelligibly now produces pages of coherent narrative, who once could not bear unfamiliar surroundings has taught himself to use public transportation.

We are pleased to have this opportunity today to present to you one of the young people whom you have helped so much.

Mr. SIMON. Thank you very much.

Mr. AKERLEY. Mr. Chairman and members of the committee, my name is Ed Akerley. I am 14 years old. I live in Silver Spring, Md., and I have autism.

I went to Hillcrest when I was three. Sometimes I used to run away after eating lunch. Sometimes I got into serious trouble for that. Also, I used to beat up the kids over there which was bad. When I did a bad thing again, sometimes Mr. Stoddard pinned me to the floor. I screamed and cried while being pinned. I did not like being pinned at all.

Once at art I ran off. When I came back the teacher said, do not leave the art room. Much later I was still there and someone said, why are you still sitting in the art room?

Then I switched to Christ Child School. I was in group 1 and then in group 4 where Tammy was in my class. Sometimes I had Tammy chasing me around the playground which I was having fun. Sometimes we went on some field trips.

One day we went to Washington, D.C. and I went to the top of the Washington Monument with my class.

One day I wanted to go to a public school to be with normal kids and do what the normal ones did. Then I told Mommy I wanted to walk or ride a bus to school and not go in our car anymore.

I had a talk with my teacher, John Marston, about going to a new school to be with normal kids. My other teacher, heard about it, too.

When John had a talk with the principal, Bert Lones, about me leaving Christ Child, Bert wanted me to come back after summer vacation, so I had to go back to Christ Child for a while for Bert to see if I was ready.

Then by close to Christmas I was a new boy at Dennis Avenue School. At first I went there for half, and then I went to Christ Child in the afternoon. Later I stayed a full day. My teacher was Mrs. Siegel.

A boy named Eric had so much trouble learning when he was mad. Sometimes it cracked me up, making me laugh. I tried not to laugh and tried to be more normal, even if it was a joke about Eric.

The next year I was in Miss Kugler's class at the beginning of the year. Jean Edeson teased me which I did not like. Chris and Jerome were in my class. Nathaniel was there at the beginning only because he was having trouble being good.

So it was lots of fun in the class. Our teacher gave us Winnie the Pooh coloring books. They were more like fun. I did work first. Then

when it was finished I colored in my Winnie the Pooh book. Winnie the Pooh was my favorite because I was young. I took Hot Wheel cars to school to play when work was done. Sometimes I even used to read Curious George books to Chris. Sometimes they picked on me a little bit.

Then when there were not enough students, we had to switch to Forest Grove School. So I worked hard the next year. Miss Burroughs was my teacher. I was teased. Before then they acted nice to me.

I was in the Halloween parade. I dressed up like a girl. So I liked the kids at school. Sometimes I had speech. I liked that, too.

By the end of September I went to Marlo Ridge with the sixth graders and the kids from Four Corners School. I had a good time except for being teased by some kids which I did not like. Maybe they thought they were more important.

I knew a girl named Michelle Osborn. She had long hair. That is why I thought she was good looking.

Next year I stayed there for 1 more year. Sometimes that last year at school I got picked on again. So when Mom heard of it she said, do you want to go back to a private school? I said, no. Maybe the kids do that to make themselves feel more important.

So I worked hard everyday. One day Mom took me to two junior high schools. Eastern and Key. Then when school was out I picked Eastern because I thought it would be the best.

So in the summer I had orientation for 4 days at the new school. I liked it a lot because it was nice, because it has nice special ed.

When I was in seventh grade I had trouble with geography because it was a little hard. I got a failure notice that I did poorly. I had to study more.

After having art with Mr. Fierstein I went to home ec. In the sewing class there was too much confusion. I was being teased by two boys hitting me on the head with pencils so Mr. Hedderman finally pulled me out of there.

So I went back to having art with Mr. Fierstein. Back in the art class there was no teasing. After art I again went back to sewing. Then there was no teasing.

A girl in my sewing class was nice to me by helping me thread the machine and doing my sewing. Her name was Terry Gaylove.

Those two boys that caused the trouble should have got pulled out of there. Their names are Kevin and Timmy. I was not bad, they were. I should have stayed in that class. I was not trying to cause trouble in sewing. Mostly in my work I did pretty good, which Mr. Hedderman said.

This year I am in the eighth grade. I have music first period. Then second I work on two pages in phonics, and some days language. At third I have gym. At fourth I have science and land animals. Then I have lunch.

After lunch I have math. After I have reading. After reading I have geography. After geography I go home when the bell rings. I still ride the bus to school.

Mr. SIMON. Thank you very, very much for an excellent statement, Ed. We are proud to have you here as a witness.

Mr. ARKLEY. Oh, you are welcome.

Mr. SIMON. First of all, for parents who may read the record or anyone who may be here, I think one of the lessons from Ed's testimony is not only the opportunity that 94-142 can give young people, but parents ought to admonish their children not to tease others because of physical handicap or race or religion or whatever it is.

It is a very natural thing for children to do that and I think the word "tease" came out in your testimony a great deal and it is one of the things that does concern some of us in this area.

Ed, have you heard the word mainstream before? Do you understand it?

Mr. AKERLEY. I don't think so.

Mr. SIMON. There is no reason for you to learn that. That is not part of your education yet in school, but it is what educators call putting people who have different handicaps into the regular classrooms, whatever that handicap might be.

Do you think from your experience that we ought to be encouraging more and more young people with handicaps to get into the regular classes rather than have separate schools?

Mr. AKERLEY. Yes.

Mr. SIMON. And if I could ask your mother the same question.

Mrs. AKERLEY. Our formal statement, Mr. Chairman, addresses that to some extent. I certainly think it is a desirable goal. But I think mainstreaming has to be applied with the same sensitivity that some of the other new things in 94-142 do.

I don't think Ed would have had the successful experience in public junior high he has had if he didn't have pretty intensive help at the beginning.

So I think you have to do what the kid needs at the time he needs it.

Mr. SIMON. May I apologize to Ed, too. I said you were 12 and you are 14. Later on in life you will appreciate that, but right now you don't.

Mr. Erdahl?

Mr. ERDAHL. Thank you, Mr. Chairman.

I, too, would just like to echo the appreciation that you have expressed to Ed and his mother for being here today. I think the area we are getting into is one that we in the Congress should properly look into, and I think these hearings are going to prove to be valuable and enlightening for us.

I could relate to Ed today because I have four sons.

Mr. SIMON. Mr. Staack?

Mr. STACK. Mr. Chairman, I regret I was unavoidably detained on another matter, but I am very pleased that I was here to hear a part of Ed's testimony and I certainly commend him and his mother for coming to this hearing. I know this is not an easy thing to do, but I think it certainly is a commendable thing for you to do, because not only are you helping Ed, but you are helping so many other people so situated.

I think certainly our chairman is to be commended for his great interest in this general subject and I want you to know that this is a commitment that is one which is very dear to my heart.

I, as a Member of Congress and a member of this committee, certainly hope that we can move in the direction not only of passing this



particular bill, but beyond that, I think reaffirming our commitment to the cause which you so eloquently addressed, and I thank you.

Mr. SIMON. If my colleague would yield. If I may ask your mother this question, Ed.

As you look to his high school now, is the local school district—you are in the Montgomery County schools—providing a program from your viewpoint that is adequately geared to Ed's future and his needs?

Mrs. AKERLEY. To be very fair I have to say yes. They have mainstreaming for children with learning disabilities right through 12th grade and we happen to live near a school that has a program. So it will be a very normal experience. He will go to the high school he would have gone to anyhow.

In fairness I have to say we are lucky, that not every secondary student with a handicap is going to get the kind of program he will.

Mr. SIMON. Thank you.

Mr. Coleman?

Mr. COLEMAN. I was just wondering, the first 7 years of Ed's schooling were in a private school, publicly funded. Was this accessible and available to you or was it unique to your situation?

Mrs. AKERLEY. Well, the school, both schools were close enough to our home that it wasn't difficult to get to them physically. Their accessibility financially was a whole different thing.

Maryland had a program of tuition assistance for children with handicaps who needed private schooling before 94-142 was passed. But it was a very well kept secret. You had to know about it and then have the savvy to go and get it for your kid.

Mr. COLEMAN. And you paid the tuition yourself?

Mrs. AKERLEY. Only the first year and very little. It was a mix of public funding, private insurance and no more out of our own pocket than we would have paid for nursery school for the other three children. So that was a normalizing experience. Eventually we were able to get full tuition assistance for him.

It depends on parents' savvy. Now it has changed and anyone can get it.

Mr. COLEMAN. Is it more publicized and made available? It is still not something you learn through the grapevine? It is publicly known now that these schools, at least for the first years, are available?

Mrs. AKERLEY. Public Law 94-142 changed that. You are not allowed to keep it a secret anymore and I don't think there is a parent of a handicapped child in Montgomery County that doesn't know those five numbers and what they mean.

Mr. SIMON. Mr. Beard?

Mr. BEARD. Thank you very much, Mr. Chairman.

I think Chairman Simon has certainly brought to the attention of this Congress the continuous oversight need in this area, and I join with all my colleagues in looking forward to the testimony in the various hearings we will have on this subject.

I think it boils down to probably, as you mentioned in the case of your son, the situation has been pretty good as far as the school goes. Maybe there are some areas of the country, possibly even my own State, where they have to travel many miles in order to be able to get a decent education and it could go from good to bad, depending on where you live.

But I think the least we can do in the Congress is to take care—I have said this on many subjects—of our own people. We take care of everyone else beyond the shores of America and I think the least we can do is take care of Americans. That is what we hope to do in this committee, accomplish an adequate equal education, no more or less, equal education with someone else that can walk every day back and forth to school and have no problems.

Mr. SIMON. Ed, may I ask you one final question?

What would you like to become 10 years from now, 20 years from now, what would you like to be doing?

Mr. AKERLEY. You mean like when I grow up?

Mr. SIMON. That is right.

Mr. AKERLEY. Whenever I am out of high school I want to get a good job and get married. When I have my own house I want to have some children and I want to have a dog and a vegetable garden in my backyard.

Mr. SIMON. That sounds marvelous. And what do you want to do to make a living to pay for the schooling of those children and buy the vegetable seeds?

Mr. AKERLEY. In my vegetable garden I would grow carrot sticks and green peppers and tomatoes.

Mr. SIMON. What kind of a job would you like?

Mr. AKERLEY. Maybe fixing street lights in an orange snorkel truck before they burn out.

Mr. SIMON. You have things pretty well thought out. I tell you that.

We thank both of you for being here, and, Ed, may I just tell you that there are five Members of Congress who are very proud of you. It is an honor to have you here.

Mr. AKERLEY. Thank you.

Mr. SIMON. Thank you.

Our next witness on this panel is Mr. John Siepp.

**STATEMENT OF JOHN SIEPP, EDUCATIONAL CONSULTANT, UNITED CEREBRAL PALSY ASSOCIATION, ACCOMPANIED BY KATHLEEN ROY, ASSISTANT DIRECTOR, GOVERNMENTAL ACTIVITIES OFFICE, UNITED CEREBRAL PALSY ASSOCIATION**

Mr. SIEPP. Thank you, Mr. Chairman.

I am John Siepp, the educational consultant from the United Cerebral Palsy Association, and with me is Kathleen Roy who is the assistant director of the governmental activities office of the United Cerebral Palsy Association.

We have submitted written testimony that we would like to have considered entered into the record, and I will only highlight certain parts of this testimony.

And in addition, I bring the chairman greetings from I'CP of Illinois and Jane Chapin. She wanted me to give you her personal regards.

Mr. SIMON. She is an old friend.

We will enter your full testimony in the record.

[The prepared statement of John Siepp follows:]

PREPARED STATEMENT OF JOHN STEPP, EDUCATIONAL CONSULTANT, PROFESSIONAL SERVICES PROGRAM DEPARTMENT, UNITED CEREBRAL PALSY ASSOCIATIONS

INTRODUCTION

Appearing on behalf of United Cerebral Palsy Associations, Inc., is John Stepp, Educational Consultant, UCPA Professional Services Program Department. Mr. Stepp has a Bachelor's Degree from California State College in Los Angeles with teaching credentials in elementary education of non-handicapped children as well as teaching credentials in the instruction of orthopedically handicapped children at both the elementary and secondary levels. Mr. Stepp also has a Masters Degree from Teachers College at Columbia University where he majored in the education of the orthopedically handicapped. While on the UCPA staff, Mr. Stepp served as the Associate Director of a Bureau for the Education of the Handicapped funded national collaborative infant project. Prior to his employment with UCPA, from 1953-1971 he was a classroom teacher and the Associate Director of the Spastic Children's Foundation in Los Angeles. He is a member of the American Academy of Cerebral Palsy and Developmental Medicine, and past President of the California State College Chapter of the Council for Exceptional Children. He is the author of several articles as well as co-author of a book on early childhood education entitled "Program Guide For Infants And Toddlers With Neuromotor And Other Developmental Disabilities."

Public Law 94-142, "Education for All Handicapped Children Act" has and will continue to have, a very dramatic effect on the lives of our nation's handicapped children. Until the enactment of this legislation, the education of handicapped children was, at best, a fragmented and discouraging process. We at UCPA believe that we are in a unique position to comment on the implementation of Public Law 94-142 for two reasons. First, children with cerebral palsy vary in the degrees of involvement from those children who are only mildly handicapped and may need little special educational assistance, to those children who are severely and multiply handicapped with cerebral palsy and will need a variety of intensive special education and related services in order to reach their full potential. Second, prior to the enactment of Public Law 94-142, most UCPA affiliates were in the business of providing special education to children with cerebral palsy. While many of our affiliates continue to provide special education services to varying degrees (as will be discussed later in our testimony), many other affiliates are moving out of the business of education and into other services, such as adult programming and infant stimulation activities. We believe that this in itself is an indication that the mandate of Public Law 94-142 is having a positive effect on the education of handicapped children.

In June 1978, the UCPA Governmental Activities Office issued a report entitled "UCPA Affiliates Report Implementation Experiences With P.L. 94-142. The Education for All Handicapped Children Act." This report surveyed several of our affiliates on a variety of issues surrounding Public Law 94-142. The report is attached as an appendix to our written statement and we request it become a part of the written record. This survey indicated that there were three major areas of concern to UCPA affiliates: (1) the provision of related services to children with cerebral palsy, (2) the concept of least restrictive environment and its relationship to private schools, and (3) the I.E.P. (individual education plan) and due process procedures and their effect upon handicapped children and their families.

RELATED SERVICES

Children with cerebral palsy vary in both the degree and type of their neurological involvement. For this reason the provision of related services to children with cerebral palsy is critical. Some children may need a combination of related services such as physical, speech, and occupational therapy and the provision of these services as early as possible in the life of the child with cerebral palsy can often reduce, and in some cases substantially eliminate, the handicapping condition. Prior to the enactment of Public Law 94-142, UCPA provided children with cerebral palsy with such related services. Now the question is raised, to what degree are school systems beginning to take on their responsibilities as far as providing these related services, and what is the role of agencies like UCPA in assisting school systems in meeting their responsibilities in this area?



Public Law 94-142 clearly states that our nation's handicapped children are entitled to special education and related services which meet their individual needs. "The Act describes related services as developmental, corrective, and other supportive services including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, medical and counseling services." The term "related services" includes "transportation" as well as those listed in the Act. This term also includes school health services, social work services in schools, and parent counseling and training. Thus, there are a broad range of services which are to be provided to handicapped children under the auspices of related services. However, the survey of our affiliates found the provision of related services generally inadequate or unavailable.

Public Law 94-142 is still in its infancy stages of implementation, and as both State and local education agencies begin to take on their responsibilities in educating our nation's handicapped children, the provision of such related services will continue to improve. However, during the critical period of implementation, (as states "gear up" to meet the mandate) we believe that agencies such as UCPA affiliates can enter into a partnership with both the SEAs and LEAs in providing some of these related services. A brief look at what several of our affiliates are already doing to provide such services may assist the Subcommittee on Select Education to better envision how our affiliates can be of assistance.

UCPA of Northeast Maine in Bangor received last year \$54,566 in federal funds, a combination of local education monies as well as ESEA Title I monies. Through these funds our affiliate in Bangor was able to provide school age children with education and related services. Our affiliate provided and continues to provide infant and preschool programs for young handicapped children. These programs and funds are complemented by \$20,000 in Title XX Social Services funds to operate a home based developmental therapy program for children ages to 5 and \$3,000 for a summer camp program. The State Mental Health Department grants UCPA \$2,000 and the State Developmental Disabilities Agency grants \$13,330 for its infant development program. The Title XVI of the Social Security Act (Mikva Amendment), administered by the State Crippled Children's Agency, grants UCPA \$1,000 for services to preschool children receiving Supplemental Security Income. Thus, educational funds are combined with five other agency funds to provide the continuum of related services required by children with developmental disabilities in Northeast Maine.

UCPA of Chicago receives approximately \$400,000 in both ESEA Title I and Public Law 94-142 funds. This affiliate also receives approximately \$392,000 through the Department of Illinois Mental Health Division of Developmental Disabilities. With these funds UCPA of Chicago is able to provide special education and related services to approximately 150 severely handicapped children in the Chicago area.

UCPA of Hawaii receives \$35,600 from the Department of Education to provide a special education class which focuses on physical, speech, and occupational therapy and sensory stimulation.

Thus, UCPA affiliates have expertise in providing related services to handicapped children. We would encourage the Congress to continue to foster such cooperative agreements whereby State and local educational agencies work with private agencies to provide the related services previously prescribed. Such a sharing of responsibility will surely enhance the quality of education and related services which are given to handicapped children and may also serve to help education agencies feel less overwhelmed with their mandated responsibilities.

UCPA can also assist the SEAs and LEAs in helping the regular classroom teacher with the responsibilities of educating severely handicapped children on a day-to-day basis. UCPA has had experience in providing workshops and conferences to help educators and families understand principals of normal growth and development and to assist the child who is severely physically involved to participate in more normalized activities and settings. The following example illustrates how one such conference helped a severely-involved child participate more successfully in a regular classroom setting:

A conference conducted in the New England area.

A teacher with a regular classroom who had an eight year old child with cerebral palsy in her classroom learned that the recommendation of the occupational therapy consultant that included a great deal of complicated bracing was not really needed for this particular child during the course of this conference.

ference. Thus, she was able to discuss the child therapy recommendations with more intelligence and expertise.

While we realize that this type of assistance will be required largely on an individual basis, we would encourage SEAs and LEAs to utilize this type of expertise. Such consultative assistance will enhance the quality of education for severely handicapped children and may enable more children with cerebral palsy to participate in regular classroom settings.

Finally the provision of transportation, as a related service, and its relation to the total educational experience must be discussed. Transportation in and of itself, may not be a key factor in education of handicapped children. However, transportation, as it effects access to all other types of related services is critical, and results from our study indicate it is generally sadly lacking. Transportation is a related service which most responding states and localities provide. However, transportation services are frequently inadequate and have harmful effects on the child. . . . In Maryland, for example, there are too few bus vehicles, necessitating multiple stops resulting in physical and emotional strain on children, drivers, and driver assistants. UCPA of California indicated that transportation to therapy for children, mainstreamed into regular classrooms is a major concern. The report found that generally it is more costly for the therapists to travel to individual schools than to transport children to centralized locations for therapy. The report concluded that unless school districts are able to provide transportation to therapy, parents preferred special school placements. Thus, the lack of transportation undermines placement in the least restrictive alternative—the regular classroom or school.

UCPA believes that the provision of transportation is a key factor in assessing all other related services to handicapped children. Because transportation is central to all other types of related services and because it is a problem which appears to be widely experienced the Congress may wish to give this problem special consideration. Again, we suggest that SEAs and LEAs be encouraged to contact with agencies such as UCPA who already have some degree of expertise in this area. Such agreements will enable the SEAs and LEAs to effectively utilize existing expertise and in turn, allow them to focus their efforts on other areas of special education.

#### *Interagency agreements and their effects upon related services*

The provision of related services is critical to the total educational experience for handicapped children. Yet, many children are not receiving these services. In order to address this problem, the Bureau of Education for the Handicapped (BEH) has entered into a number of interagency agreements which are designed to access services to other federal programs already providing related services. The number and extent of these interagency agreements is beyond the scope of this testimony; however, a look at a few of these agreements may aid in our understanding of how related services can be provided through a cooperative effort at the federal level. Further, a look at the effect which these agreements are having on the local level may also indicate the direction which Public Law 94-142 must go if related educational services are ever to be provided in a comprehensive manner.

BEH has entered into a cooperative agreement with the Administration on Children, Youth and Families (ACYF). The effect of this agreement will be that ACYF and BEH will work closely to assure that children who are in Head Start programs receive a continuum of educational services. As stated in the memorandum of understanding between BEH and ACYF:

" . . . In order that children participating in Head Start Programs may fully realize their potential and benefit from a continuing education and related service, it is imperative that Head Start grantees and delegate agencies and State or local education agencies work closely together. . . . Cooperation between State and local education agencies and Head Start is a priority effort of both the Bureau of Education for the Handicapped (BEH), and the Administration for Children, Youth and Families (ACYF) in order to assure handicapped individuals of full opportunities under their respective programs."

BEH has also entered into a cooperative agreement with Bureau of Community Health Services (BCHS) which administers the State Maternal and Child Health and Crippled Children's programs. This particular policy statement also addresses the cooperative delivery of "related services" provided and mandated by both agencies. As the joint policy statement between these two agencies indicates:

"Both constituent agencies within HEW have mandates, under federal law, to identify, screen, and evaluate young children for potential handicapping conditions. Both agencies may provide similar services including counseling, referral and case management . . .

"The BEH and BCHS recognize that these similar mandates may, in some cases, lead to duplication of services, or alternatively, for a child to receive the services of one and not the other. Both agencies recognize that early intervention of all service deliverers is of great importance in assisting the handicapped to success."

These and other interagency agreements are surely intended to foster a better understanding between BEH and other federal programs and such understanding can only enhance the quality of implementation of Public Law 94-142, especially the provision for related services. To this end, UCPA feels that BEH has taken a very laudable first step in facilitating communication between a number of agencies of the federal government.

Yet, the question must be asked, how are these interagency agreements being translated at the local level? Are they having any impact on the provision of related services to handicapped children? While it may be somewhat premature to judge the true effects of these interagency agreements, the survey of our affiliates indicated that in many instances, related services are sadly lacking. Some excerpts from our survey will illustrate the problem:

" . . . Alabama's problems with related services are rooted in the vagueness of Public Law 94-142. No consensus has been reached regarding who pays for related services that may be identified as needed in order for a given child to benefit from special education. Related services are generally not available in Illinois . . ."

"Reasons cited by school authorities for denying children related services include:

- (1) Insufficient funds: Sonoma, San Mateo, and Santa Clara counties, California and Arizona
- (2) Services not basic to education: Seattle, Washington
- (3) Occupational therapy not a school responsibility: San Mateo County, California
- (4) Lack of speech therapists: San Mateo County, California
- (5) Therapies only available to families meeting Crippled Children's Services income eligibility tests: Los Angeles, California."

Perhaps equally as disturbing is the fact that other agencies and organizations concerned with accessing services to handicapped children are also finding that the provision of related services is not being fully implemented. In a letter to the UCPA Governmental Activities Office, Mr. Michael Reynolds, Communicator Program Manager for Telesensory Systems, Inc., (a company which designs a variety of technical devices to aid the handicapped) indicates:

"Although I am aware of several instances in which specific technical communication aids have been recommended in children's IEP's, funding for these aids has not always been easily obtained. Thus far, for example, we have seen only a single instance in which a Cannon Communicator has been funded by a state Medicaid program; many more requests have been declined as inappropriate."

The vagueness of pinpointing responsibility for related service financing creates a "Catch 22" situation. In April 1979, Vanessa M. Sheehan of the law firm of Pelletreau and Pelletreau, Patchogue, New York wrote BEH stating that some private health insurance companies have refused to pay claims for related services, such as physical and occupational therapy. In his May 21, 1979 reply, Thomas Irvin, Chief, State Policy and Administrative Review Branch, BEH, demonstrates the vagueness of responsibility:

BEH regulations "provide that insurers are not relieved by Part B from otherwise valid obligations to pay for services to handicapped children . . .

Further, there is nothing in the regulations which require that parents of handicapped children use their insurance benefits for related services such as physical or occupational therapy . . ."

If a SEA or LEA, knowing a parent has private insurance coverage, refuses to finance related services, the parent has no choice but to use it. They have thus used up benefits which other family members may need. They have stimulated the need for higher premiums. And the situation promotes negotiation while children are not served.

We are not citing these examples to be overly critical of any one federal agency or to infer that BEH has done less than an excellent job. Rather, we feel that the provision of related services will take a great deal of interagency cooperation over time in order to achieve the type and quality of related services which is envisioned in Public Law 94-142.

#### *Recommendations regarding related services*

Because the provision of related services is so critical and because it appears that this is an area of Public Law 94-142 which has not yet been fully realized, we would like to offer the following suggestions:

We firmly believe that full implementation of the above-mentioned interagency agreements will help assure that the range of related services are provided to handicapped children.

While such interagency agreements will increase the likelihood that these services will be provided, more funds will be necessary to meet this objective. Thus we recommend that the Congress consider providing more monies to meet the mandates of 94-142.

We feel that the provision of related services is so important to the overall objective of providing handicapped children with a free appropriate public education that Congress may wish to target funds specifically for this purpose.

Either Congress or BEH must specify who has "first dollar" responsibility and who has "last dollar" responsibility for the provision of related services. This responsibility was clearly stated in the November 29, 1978 BEH-Health Care Financing Administration (HCFA) joint program interpretation regarding the provision of educational services to residents of Medicaid Intermediate Care Facilities for the Mentally Retarded and Developmentally Disabled. Other interagency agreements must be this specific regarding exact financial responsibility.

No amount of funds nor interagency agreements can replace the importance of strong and consistent Congressional oversight. Such oversight is essential if the mandate of Public Law 94-142 is to ever become a reality.

#### THE LEAST RESTRICTIVE ENVIRONMENT AND PRIVATE SCHOOLS

Public Law 94-142, through its mandates of least restrictive environment and the provisions for a free appropriate education clearly encourage the placement of handicapped children in public schools. As the Executive Director of UCPA of Wisconsin, Mrs. Sue Kendrick, testified before the Senate Subcommittee on the Handicapped:

"I feel that the majority of children could be mainstreamed if schools are given the flexibility to be creative in seeking solutions and if adequate funding is available. If we are ever to overcome the attitudes and other barriers that prevent full participation of people with disabilities in our society it is essential that people with and without disabilities have opportunities to know, understand, and appreciate each other."

Certainly UCPA applauds regular classroom placement of handicapped children whenever it is appropriate. However, we also recognize that there are times when private special education in a support environment is most appropriate to meet the child's needs. Because children with cerebral palsy vary in degree of neurological involvement, some of these children in fact may need such private education settings.

In our survey, some parents indicated anxiety about the quality of education which their children were receiving in public schools. As the survey indicates, "In New York the public sector has generally ignored the role of private education providers and has failed to coordinate and utilize private education resources . . . The concern of private agencies in these states, as well as in Ohio, is with the quality of service—a fear that in attempting to serve large numbers of previously unserved children, public schools are sacrificing quality of service . . ."

It is important to realize that what is considered the least restrictive environment may change as the individual child's needs change. For children with cerebral palsy this may mean that a child is in a regular classroom for awhile, but is allowed to return to the private school if its developmental needs warrant such a placement.

UCPA realizes that the decision of a child's placement must be made on an individual basis. Further, we fully expect both SEAs and LEAs to take on their responsibilities in meeting the educational needs of handicapped children. (Such



a process will clearly be enhanced through improving related services as discussed previously.) However, we also believe that even when related services are fully provided, and education agencies are in total compliance with 94-142, there will still be a place for the private school in meeting the unique needs of some handicapped children. We point this out only because we feel it would be a grave error for the Congress to not continue to fund private schools as the least restrictive environment for some children.

From informal contacts with our affiliates, most LEAs (other than those previously cited) have consulted with private school officials before submitting their applications for Public Law 94-142 funds. This has been helpful in determining the nature and extent of services to private school handicapped children.

Despite this consultation financial reimbursement has been a serious problem, such as in San Francisco, Los Angeles, and Illinois (refer to attached appendix). Provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private school. Since parents are not expected to pay part of the education costs, the quality and scope of educational services may diminish for some children. BEH has carefully avoided becoming involved in this area; in a May 9, 1979 letter to Frank Guthridge, Executive Director, Child Development Center, Norristown, Pennsylvania, William D. Tyrrell, Chief, Policy Section, BEH, stated:

"The specific nature of contractual arrangements between public and non-public education agencies serving the handicapped remains a State matter subject to all applicable program standards."

UCPA recommends that either the Congress on BEH require public reimbursement of the existing level of education and related services in private schools. Public Law 94-142 should not be an excuse to diminish the quality of education.

#### THE IEP AND DUE PROCESS PROCEDURES

The IEP and the Due Process Procedures are truly the key to the mandates of Public Law 94-142. Without these provisions, parents, advocates, and the Congress, would have no assurance that children were in fact receiving an education which fully meets their needs. It is therefore a bit ironic that these two provisions appear to have the most problems in implementation at the State and local level. We would like to briefly discuss these provisions and make some recommendations to how the law might be strengthened so that these two aspects of the law could be better utilized.

Two parents, Mrs. Sue Kendrick (refer to earlier citation) and Mrs. Lee Viets, (Executive Director, UCPA of Vermont) have recently testified before the Senate Subcommittee on the Handicapped that they have had substantial difficulty with their child's IEP. As Mrs. Kendrick stated,

"... Although I have yet to participate in the development of my own child's IEP, I feel participation is essential to insure that the recommendations of the M-Team will be carried out and exactly how they will be done so. It is also vital that parents have a copy of the IEP in order to know from progress reports (report cards) and parent-teacher conferences whether the goals and objectives for their child are being accomplished."

Further, as Mrs. Viets said,

"... And so, a year ago, prepared. I thought, by my experience as an advocate for others, I called the school to request an evaluation and the development of an IEP for my daughter. I found the reality of local implementation to be seriously flawed... This supposed IEP consisted entirely of suggestions concerning adaptations to the physical environment which has been made by me to the school guidance counselor following a conference with the Child Development Clinic. The identified problem was listed as "physical handicaps caused by cerebral palsy" with an annual goal "to eliminate as many barriers as possible for Diana—to encourage her to be independent and successful." This document did not meet any of the criteria for the content of the IEP as stated in the regulations (12a346). When I called to inform the school that this was not an acceptable IEP I was told only that no services would be provided without my signature..."

Thus it is apparent that the provisions of the IEP—which are to assure that a child's individual education needs are met—is still having difficulty being translated at the local level. Mrs. Kendrick is an occupational therapist and Mrs. Viets is a teacher by professional training. Both are involved with their SEAs in developing state-level Public Law 94-142 policy. And yet each has

experienced difficulties in developing IEPs for their handicapped children. If these professionals are having problems, one wonders about other parents.

Equally disturbing, is the way in which due process procedures are being carried out. Ideally, this should be a process which parents can turn to when they feel that their child's needs are not being met. On a realistic level however, this is often far from the case. As our survey indicates,

"Ohio requires an administrative review process prior to the due process hearing. While hundreds of parents have participated in the administrative review process, relatively few have been involved in due process hearings. Either parents are not adequately informed or they are intimidated at the administrative level for complaints persist."

In Alabama due process hearings are frequently too complex, cumbersome, and potentially time-consuming and expensive. The adversarial nature of the hearing inhibits the parent. Many parents fear "retribution" by school officials.

In their report to the Congress entitled "Towards A Free Appropriate Public Education" (issued in January, 1979) the Bureau of Education for the Handicapped acknowledged that, while mechanisms for due process were in place in some states, other states would need more time in order to fully develop this provision of Public Law 94-142. As their report explains:

"Members of the Bureau's site-visit teams report that most of the State due process procedures are still in the early stages of development. However, from observation of provisions already in existence and of scattered due process actions, it is possible to speculate about some of the issues that seem likely to emerge. Most of the available systems stress formal due process hearing and place less emphasis on parent or child involvement prior to the school's decision for an educational placement. Yet, active parent involvement in developing the initial special education program could deter possible conflicts later on, by encouraging parents and schools to work as partners rather than as adversaries. Those due process procedures that do not provide an opportunity for informal resolution of differences of opinion between the home and school may not be well adapted to the field of education, which relies on the school, the parents, and the child to develop sound programming decisions.

"Ideally, due process systems should also provide equal bargaining power between the school and the parents. As many observers have pointed out, when a parent at a due process hearing is not represented by counsel but the school system is, the hearing is hardly a contest between equals. Mere notice to the parent of the "right" to be represented may not be sufficient. Many parents, particularly those from disadvantaged or minority backgrounds, may not be able to obtain legal counsel, and many of the current State due process systems do not take such factors into account.

"To develop some practical suggestions for improving the due process situation, the Bureau commissioned three different authors to describe "ideal" due process systems. Their ideas are diverse and are being published in a monograph to be circulated among the States, in the hope that they will stimulate both improvement and additional ideas. The Bureau is also examining the merits of mediation practices designed to resolve conflicts between schools and parents before the parties become adversaries."

Thus while progress has been made toward assuring the viable due process procedures are in place throughout the country, it will be some time yet before all states have due process procedures in place which do in fact, insure a free appropriate public education for handicapped children. UCPA believes that BEH has done and will continue to do an excellent job in working with states on this particular provision of the law. Clearly such efforts can only increase the likelihood that these due process procedures will have a positive effect upon the educational system.

#### *Recommendations regarding the IEP and due process procedures*

Solutions to the problems which are present in both the IEP and the Due Process Procedures are not easy. However, we would like to emphasize that these two provisions are absolutely critical to the complete realization of the goals of P.L. 94-142. It would be a terrible mistake to weaken either the IEP or due process procedures for, as we pointed out earlier, these are the only means of reconciliation which parents of handicapped children have if they feel that their child is not receiving an education which fully meets his needs. However, UCPA feels strongly that there are clear ways to strengthen these provi-

sions so that they are more workable for parents and school personnel alike. Mrs. Lee Viets made the following suggestions:

*Additional financial resources and administrative support for parent training must be available.* School systems should be responsible for some portion of these training activities, but independent parent training centers, advocacy organizations and state P.A. systems must also be assisted to provide additional parent training.

*Technical assistance and in-service training for all teachers and administrators must be more widely available.*

School systems must provide positive support (in-service days, recertification credit, release time) for teachers who participate in training activities.

*Training must include information—*

about the unique needs of children with various disabilities, and the possible effects on educational performance of those disabilities as well as

skills to work effectively with children with a variety of needs, and adequate information about the contents of P.L. 94-142, especially the IEP process which is the heart of a Free Appropriate Public Education.

The same information about disabilities, methodology and the law must be included in all degree-granting programs responsible for the preparation of future teachers.

To add to Mrs. Viets' comments, we feel that the Congress must continue to give BEH both the support and latitude which it needs in order to work some of these more difficult problems out. With respect to the due process procedures, it is virtually impossible for the Congress to legislate sensitive communication between parents and the school system. However, as we have already pointed out, BEH can offer both technical assistance and direction to states which will assure that the due process mechanism which is in place assures that the Process which parents will follow is as objective as possible.

We appreciate this opportunity to comment on the implementation of Public Law 94-142, and we will be pleased to answer any questions which the Committee might have both now and in the future.

#### UCPA AFFILIATES REPORT IMPLEMENTATION EXPERIENCES WITH PUBLIC LAW 94-142: THE "EDUCATION FOR ALL HANDICAPPED CHILDREN ACT"

(In depth resource material prepared for affiliates of United Cerebral Palsy Associations, Inc.)

#### PURPOSE OF PAPER

The purpose of this paper is to alert the Bureau of Education for the Handicapped (BEH) of the Department of Health, Education, and Welfare (DHEW) and leading advocate organizations to Public Law 94-142, the "Education For All Handicapped Children Act," implementation issues and difficulties prior to their visiting a state.

#### METITOPOLGY

In the fall of 1977 the UCPA Governmental Activities Office wrote 20 state UCPA affiliates which have demonstrated advocacy experience with Public Law 94-142 and requested their participation in an "early warning system" by preparing state situation reports. Of the 20, eleven agreed to participate and seven actually prepared written reports.

In reporting Public Law 94-142 implementation experiences in the January 1978 "Word From Washington," mention was made of the state situation paper project. As a result two UCPA affiliates wrote the UCPA Washington office.

At its November 2, 1977 meeting the UCPA National Governmental Activities Committee decided to launch an outreach program to have affiliates designate a volunteer liaison to UCPA's governmental activities program. The six District Representatives on the Committee were given responsibility for this initiative. It was suggested that a detailed questionnaire prepared by the UCPA Washington office on Public Law 94-142 be utilized to determine the level of interest in and knowledge by affiliates of this important public policy issue. Gerald Varty,

Western District Representative, disseminated the questionnaire to all UCPA affiliates in his district. Dona Caswell, Midwest District Representative, forwarded the questionnaire to the UCPA state affiliates in her district. Sixteen questionnaires were returned to the UCPA Washington office.

Lastly, this paper has utilized the findings of a UCPA of California Developmental Disabilities Project Of National Significance report on the needs of nonretarded developmentally disabled persons.

Appendix One lists all UCPA affiliates participating with the UCPA Governmental Activities Office in preparation of this paper.

#### MAJOR FINDINGS

##### *Focus on adult needs*

A number of UCPA affiliates (not listed in appendix) responded by stating that their programs were solely concerned with the needs of adults with disabilities. These agencies noted that with the emergence of public sector responsibility for education, and faced with increasing numbers of severely disabled adults in their communities, affiliate program services have evolved from direct provision of education and related services for school-age children to an emphasis on adults.

It is commendable that these agencies, responding to public initiatives, have closed their private specialized schools, and assumed responsibilities in other areas. At the same time this trend is unfortunate in one respect, because community agencies with 20 to 30 years of experience in educating handicapped children have not continued to be involved in assisting and monitoring public programs for school-aged handicapped children. The wealth of experience and expertise of these agencies cannot easily be replaced.

##### *Related services*

In reviewing Public Law 94-142 implementations to date, failure to provide related services was clearly the foremost problem cited by participating affiliates. The Federal Government needs to clarify the educational sector's responsibilities for the provision of related services and initiate interagency agreements at the Federal level as an example to local and state governments.

##### *Individual education plan development*

Many parents felt that the IEP did not adequately specify "appropriate" services for their children's needs, many IEP's seemed to be mass produced, and frequently parents were not informed of their rights nor involved in IEP development. A major component of Federal and state monitoring efforts should be detailed attention to the IEP.

##### *Coordination with and utilization of private agency resources*

Many UCPA affiliates reported that the public sector has generally ignored the role of private education providers and failed to coordinate and utilize private education resources.

##### *Funding situations*

Lack of resources and required funding were cited by UCPA affiliates all over the nation as a major problem. If the goals and objectives of Public Law 94-142 are to ever be achieved, a strong and dynamic Federal leadership role, backed by full funding levels, must be continually initiated.

#### THE QUESTION OF RELATED SERVICES

Public Law 94-142 defines special education as "specifically designed instruction. Related services are those services required to assist a child to benefit from special education. The Act describes related services as developmental, corrective, and other supportive services including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services. The term "related services" includes "transportation" as well as those listed in the Act. The term also includes "school health services, social work services in schools, and parent counseling and training."

The regulations define "medical services" as "services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and related services." "School health services" means services provided by a qualified school nurse or other qualified person.



Additionally, the regulations require that "nonacademic and extracurricular services and activities" are provided in order to afford handicapped children an equal opportunity for participation in those services and activities. These services "may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to handicapped persons, and employment of students. . . ."

The scope of related services presents a serious problem of financing. The school system is responsible for seeing that related services are provided, but is not necessarily responsible for paying for such services. This means that other financing agencies—such as Crippled Children Services and Medicaid—must develop cooperative financing arrangements with the school system. Additionally, a clear system of responsibility for service provision along with the arrangement for payment of such services must be developed.

The regulations address the problem of method of payment by stating that the state is to use whatever state, local, Federal, and private sources of support are available in the state to implement Public Law 94-142. The regs encourage joint agreements between agencies. The regs declare that "nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a handicapped child."

Though related services includes medical services, there are very real restrictions in the Act on such services. ("for diagnostic and evaluation purposes only"). The UCPA Collaborative Infant project has documented that in the education of the severely disabled child, medically related services must be included in the development and implementation of the IEP. Even if interagency financial linkages are developed, the medical services defined as "related services" are much too narrow.

#### *The problem of transportation*

Transportation is a related service which most responding states and localities provide. However, transportation services are frequently inadequate and have harmful effects on the child.

In Maryland, for example, there are too few vehicles, necessitating multiple stops resulting in physical and emotional strain on children, drivers, and driver assistants.

Kansas has a state law that no child may remain on a bus for longer than one hour each school trip without parental consent. Because the state is largely rural, with schools spread out over considerable distances, the law is circumvented by transferring children to two or three different buses enroute to school, a practice resulting in trips substantially in excess of the one-hour rule.

In Missouri transportation is almost nonexistent for older handicapped children. Transportation problems are also prevalent in California and Washington. In San Mateo and Santa Clara counties (Calif.) transportation is generally not available for children placed in private programs, while in Sonoma County (Calif.) transportation services are largely restricted to private school children only.

The UCPA of California study indicated that transportation to therapy for children mainstreamed into regular classrooms is a major concern. The report found that generally it is more costly for therapists to travel to individual schools than to transport children to centralized locations for therapy. The report concluded: "Unless school districts are able to provide transportation to therapy, parents commented that they would opt for special schools."

#### *Other related service problems*

Alabama's problems with related services are rooted in the vagueness of Public Law 94-142. No consensus has been reached regarding who pays for related services that may be identified as needed in order for a given child to benefit from special education. Related services are generally not available in Illinois.

Determination of what actually are related services is arguable in Seattle, with inadequate or nonexistent state matching for physical therapy, occupational therapy and speech therapy in both Seattle and Olympia, Washington. Health services are also denied in Washington.

Occupational therapy is generally not provided in San Mateo and Santa Clara counties (Calif.). In most of California physical therapy is frequently restricted to private schools only. Speech therapy is not offered in San Mateo, Santa Clara, and Sonoma counties as well as in Oakland and Los Angeles. Rec-

reaction is denied in Sonoma County and child counseling and parent counseling and training is unavailable in Los Angeles.

Reasons cited by school authorities for denying children related services include:

- (1) Insufficient funds: Sonoma, San Mateo, and Santa Clara counties, California and Arizona.
- (2) Services not basic to education: Seattle, Washington.
- (3) Occupational therapy not a school responsibility: San Mateo County, California.
- (4) Lack of speech therapists: San Mateo County, California.
- (5) Therapies only available to families meeting Crippled Children Services income eligibility tests: Los Angeles, California.

#### *Some signs of progress*

Some jurisdictions within some states do offer some related services under certain circumstances.

- (1) Transportation: California, Hawaii, Washington, Ohio, Illinois.
- (2) Speech Therapy: California, Hawaii, Washington, Arizona, Ohio, Illinois.
- (3) Psychological Services: California, Hawaii, Washington, Ohio, Illinois.
- (4) Physical Therapy: California, Hawaii, Washington, Arizona, Ohio, Illinois.
- (5) Occupational Therapy: California, Hawaii, Washington, Arizona, Illinois.
- (6) Recreation Services: California, Washington, Arizona, Illinois.
- (7) Health Services: California, Hawaii, Arizona, Ohio, Illinois.
- (8) Child Counseling: California, Ohio, Illinois.
- (9) Parent Counseling and Training: California, Hawaii, Washington, Ohio, Illinois.

#### THE INDIVIDUAL EDUCATION PLAN

The primary mechanism for assuring appropriate and quality education of children with disabilities is the Individual Education Plan (IEP). BEH regulations require the IEP to be developed by the child's teacher, one or both of the child's parents, a representative of the public agency, and "other individuals at the discretion of the parent or agency."

The regulations do not require an agency, teacher, or other person "to be held accountable" if a child does not achieve the growth projected in the plan. However, "good faith efforts" by agencies and teachers in assisting children to meet plan objectives are required.

#### *Determination of an appropriate education*

The IEP is to determine "appropriate education," but Public Law 94-142 does not define the term. Basically, the concept is viewed as whether or not the child receives services specified in the IEP, which in turn is dependent upon the validity of the plan itself.

If a child receives a free, public education (i.e., publicly run and supported) in the least restrictive environment necessary to meet his/her needs and in accordance with the services specified in his IEP, he/she will be receiving an appropriate education. A difficult question to answer with regard to a more specific definition is whether or not "appropriate" will eventually be defined as including output (achievement) in addition to input (services, adequately trained teachers, and so forth). Will "appropriate" come to mean that a child must in fact achieve all, or some, of the goals and objectives specified in his IEP?

Disagreement between parents and professionals over what constitutes an appropriate education was identified in California and Kansas.

The UCPA of California report concluded that of the 159 persons interviewed, 27 percent of those in public school programs were dissatisfied. The primary problems were lack of teacher special skills in working with persons with disabilities (29 percent), segregation in programs limited to handicapped children (29 percent), and boredom as a consequence of services inappropriate to personal needs (13 percent). Other California affiliates stated that instructional objectives generally were not specific.

#### *Parental involvement*

UCPA affiliates in San Mateo and Sonoma Counties, California; Kansas City, Missouri; Ohio; and Alabama reported that parents generally were not informed

of their rights and thus lacked awareness that they were supposed to be involved in IEP development. When asked about their children's IEP, many parents never heard of it.

In addition to the failure of school officials adequately to inform parents of their rights, in Alabama some parents simply do not wish to participate in the development of the IEP and are content to have the professionals develop the plan for their signature. The Alabama state situation report concluded: "parents may be awed by a meeting where they are supposed to participate on equal terms with Professionals in the development of the IEP and be too self-conscious or otherwise inhibited to participate openly in the meeting."

In Arizona, parents were routinely instructed to sign the IEP without prior involvement.

#### **Mass-produced IEP's**

Maryland identified the enormous paperwork problems associated with IEP's for every child. An effort is underway to develop a unified paper network, preliminary results are complaints that uniformity means too much or too little information being required.

California and Arizona affiliates stated that the format of the plan led to its mass production without regard to individual need. In Arizona all children in the same class had the same music therapy objectives stated as "he/she will achieve the normal standard for his/her grade level."

#### **Other IEP problems**

- (1) No IEP's: Sonoma County, Calif.; Kansas City, Missouri; and Athens, Ohio.
- (2) Confidentiality not ensured: California and New York.
- (3) Nondiscriminatory testing and evaluation procedures not ensured: New York.
- (4) Inadequate labelling and capability to diagnose: California.
- (5) Schedules and locations of planning process inadequate: Seattle, Wash.
- (6) Inadequate multidisciplinary assessment: Athens, Ohio.
- (7) Failure to assist children to develop assertiveness in new situations: California.

#### **THE DUE PROCESS HEARING**

Public Law 94-142 requires every state to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education. The safeguards include examination of records; protection of basic rights; written prior notice concerning identification, evaluation, and placement; native language considerations; opportunities to present complaints; and impartial due process hearings.

Families associated with UCPA programs in Arizona; Los Angeles, Palo Alto, and Oakland, California; and Seattle, Washington have resorted to a due process hearing to protect their child's rights and interests. UCPA in Seattle acted as the advocate for the family in the hearing process, while in Arizona the State Protection and Advocacy System and Private attorneys represent the parents. Most of these appeals concerned mainstreaming decisions and were decided more in favor of the parents than the school districts.

Failure of the due process system is a major problem in Illinois. Despite the Public Law 94-142 requirements, Illinois state law specifies that a state mediator's (state superintendent of schools) decision is final. Due process hearings are not being implemented in Kansas City, Missouri and in New York State.

Ohio requires an administrative review process prior to the due process hearing. While hundreds of parents have participated in the administrative review process, relatively few have been involved in due process hearings. Either parents are not adequately informed or they are intimidated at the administrative level for complaints persist.

In Alabama due process hearings are frequently too complex, cumbersome, and potentially time-consuming and expensive. The adversarial nature of the hearing inhibits the parent. Many parents fear "retribution" by school officials.

A question raised repeatedly is, what provisions are to be made for the child pending a hearing of complaints? This is important because of the considerable delays with hearings. A related question concerns payment of the hearing process. Parents have the right to be advised by counsel, to present evidence, to cross examine, to call witnesses, and receive written or verbatim transcripts of procedures. Who pays?

Regarding the child's status during hearing proceedings, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement. If the child is in no educational program and is applying for initial admission to a program, the child—with the consent of the parents—must be placed in a public school program while the hearing proceeds.

The regulations require that the hearing be completed and a final decision reached not later than 45 days after the receipt of a request for a hearing, and that the state education agency complete its review no later than 30 days after receipt of a review request.

#### LEAST RESTRICTIVE ENVIRONMENT AND PRIVATE SCHOOL PLACEMENTS

Public Law 94-142 attempts to assure that all handicapped children have available to them free and appropriate public education which is designed to meet their unique needs in the "least restrictive environment."

The UCPA of California study found that 92 percent of the children assessed were participating in education programs. Of these, 73 percent were in special education classes within public schools; however, only 8 percent were reported to be attending regular classes within the public schools.

Children associated with UCPA programs in Central Arizona; Sacramento, San Francisco, Los Angeles, Santa Clara County, and San Mateo County, California; Baltimore, Maryland; Wenatchee, Washington, and Bangor, Maine have been placed in private education programs. Three of these—Baltimore, Wenatchee, and Bangor—are UPA-operated programs. In Los Angeles, these placements have been made without the approval of the school system. In Los Angeles, San Francisco, and Arizona these placements have also been made without the approval of the parent.

Financial reimbursement has been a serious problem in San Francisco, Los Angeles, and Illinois. In Illinois, parents have been required to pay part of the education costs because of a state law limiting annual reimbursement for private school students to an arbitrary \$2,500 level.

Large student population changes, required by the least restrictive environment initiative, have created difficult child and staff adjustment problems in Maryland. In California many professionals interviewed felt mainstreaming might be too strenuous for certain children, noting that segregation gives many students the opportunity to excel and feel comfortable. The least restrictive environment requirement is frequently ignored in New York.

It is important to recall the private school placement provisions of the BEH regulations:

(1) Private school placements are only permitted if the least restrictive alternative requirement is followed and only if specified in the child's IEP. All procedural safeguards must be followed.

(2) All 94-142 Federal funds and title to property acquired with those funds must be controlled by the state or local public education agency.

(3) Residential school placements required for educational purposes, "including non-medical care and room and board," must be made at no cost to the parents of the child.

(4) Even if a child's IEP requires private school placement and even if the private school implements a child's IEP, the state and local public education agency remains responsible for IEP implementation.

(5) All children in private schools are to receive services at no cost to the parent.

(6) Public education agencies shall monitor compliance through written reports, on-site visits, standards development, and parent questionnaires.

(7) If a handicapped child has available a free appropriate public education and the parents choose to place the child in a private school, the public agency is not required to pay for the child's education. Disagreements over placement between public agency and parent are to be settled by a due process hearing.

(8) Provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private schools. The question of appropriate financial reimbursement to the private school will be continually debated.

(9) All private school placements must be determined annually, be based on the child's IEP, and be as close to the child's home as possible.



Maine is attempting to phase out UCPA school programs. A coalition of private school administrators and public school superintendents has been established to negotiate the timelines and other arrangements. Attempts are being made to regionalize special education, but the feasibility of such an approach is becoming questionable.

#### COORDINATION WITH THE PRIVATE SECTOR

In New York the public sector has generally ignored the role of private education providers and failed to coordinate and utilize private education resources.

In Maine, several examples of unilateral planning by school superintendents without consulting with private education programs were documented. In Kansas City, Missouri there has been little parent-teacher-administrator contact.

In Maryland private agencies are increasingly being viewed as "middle men" for the deinstitutionalization of persons prior to their entry into public schools, but coordination between providers and funding agencies has a long way to go.

The concern of private agencies in these states, as well as in Ohio, is with quality of service—a fear that in attempting to serve large numbers of previously unserved children public schools are sacrificing quality of service.

#### PUBLIC INVOLVEMENT

As outlined in the legislation, the consumer is anyone ranging from a handicapped child to a member of the general public who wishes to comment on the State Plan. Opportunities for participation under this legislation are:

- (1) Opportunity for the parent and the child, if appropriate, to participate in writing the Individualized Education Plan;
- (2) State Plan requirement for procedures for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children;
- (3) State Plan requirement for public hearings, adequate notice of hearings, and opportunity for comment by the general public concerning the adoption of policies, programs and procedures involved in educating handicapped children and meeting the mandates of the law;
- (4) Appointment to an advisory panel by the Governor to advise the Governor on (a) unmet needs; (b) rules or regulations regarding the education of exceptional children; (c) procedures for distributing the funds from the State Education Agency to the Local Education Agencies; (d) assistance in developing and reporting any data which the Commissioner of Education may require during his evaluation of the implementation of the law in that state;
- (5) Opportunity to review all documents concerning Local Education Agency applications which are sent to the State Education Agency;
- (6) Opportunity to peruse all evaluations and reports sent by the LEA to the SEA regarding the educational achievement of handicapped children;
- (7) Opportunity to peruse a notice by the commissioner that he will withhold funds from a state due to failure on the part of that state to comply with eligibility or State Plan requirements; and
- (8) Opportunity to review petitions filed in the Courts about such action.

Consumer involvement under Public Law 94-142 has the potential for markedly increasing the number of informed, involved volunteers. The inclusion of parents, as well as children themselves on the team responsible for the development and implementation of Individualized Education Plans provides a vehicle for increased consumer knowledge. Increased consumer knowledge will come from responsible interaction between professionals and parents who have not previously been involved in the education of their children. Unfortunately the states have not adequately involved the public in Maine, New York, and California. Illinois refuses to appoint advisory councils.

#### STATE RESPONSIBILITIES

Public Law 94-142 requires every state to have in effect a right to education policy and a plan to assure that the policy will be implemented. The requirements of the law apply even if funds are not appropriated according to formula. The law is not contingent upon funds being appropriated at a certain level.

The requirement of a free and appropriate public education does not apply to children ages 3, 4, 5, 18, 19, 20 and 21 if the application of the requirement

would be inconsistent with state law or practice respecting public education within those age groups in the state. Implementation of such a provision will be controversial—could a state currently serving 40% of its preschool children claim that practice prevents them from serving all preschool children?

The regulations clarify the exception related to inconsistency with state law or practice. If the state provides education to children in any disability category in any of the age groups, services must be available to all children with disabilities. If the state provides education to non-handicapped children in any of the age groups, services must be provided to "at least a proportionate number of handicapped children of the same age." If a state provides education to 50% or more of its handicapped children, then all handicapped children of the same age must receive such education.

Control of education is a primary area of controversy. Diting Federal guarantees to prohibit exclusions and discrimination against traditional state and local responsibilities to provide education. Public Law 94-142 charges the state education agency with the responsibility of ensuring that the provisions of the law are met, but their only real control over local education agencies is the withholding of funds. A number of states have refused to withhold funds to non-complying school districts, California, Alabama, and Missouri among them. The interests of parents and children are frequently compromised because of the separation of authority for implementation.

#### FUNDING SUFFICIENTLY

Federal appropriations for aid to states under Public Law 94-142 and preceding Federal education statutes are as follows:

Fiscal year:	Millions
1967	\$2.5
1968	15
1969	20.270
1970	29.100
1971	34
1972	37.5
1973	37.5
1974	47.5
1975	47.5

#### Public Law 94-142 begins

Fiscal year:	Millions
1976	\$200
1977	315
1978	465
1979:	
Administration request	804
Full funding level	1,200

Public Law 94-142 authorizes "such sums as may be necessary" determined by multiplying the number of handicapped children served by average per pupil expenditure by an arbitrary percentage. The percentage is 5 percent in 1977, 10 percent in 1978, 20 percent in 1979, and 40 percent in 1980 and thereafter. The formula is:

$$NAE \text{ (national average expenditure per pupil)} \times \text{rising percentage per year} \times NHC \text{ (number of handicapped children)} = \text{equal SF (amount of Federal funds allocated to the state for the year)}$$

Total national expenditure for education of children with disabilities in fiscal year 1975 was \$4.8 billion and for fiscal year 1978 a projected estimate of \$9.3 billion. The Federal effort has yet to be substantial.

In a February 17, 1977, letter to Congress, the National Governor's Conference, the Education Commission of the States, the National Conference of State Legislators, the Council of Chief State School Officers, and the National Association of State Boards of Education declared that Public Law 94-142 places "unprecedented financial and legal obligations on the states" with a timetable which many states "will find difficult, if not impossible, to meet." Citing financial difficulties, the coalition recommended deletion of individual education plans, due process hearings, and many other procedural safeguards specified in the act.

Lack of resources and required funding have been cited as major problems in Illinois, Seattle, Washington, California, particularly in Los Angeles as an ex-

cuse for not mainstreaming; Missouri, Maryland, and Alabama. Funding strains have motivated increased special interest group activity in public policy development, particularly unions, teachers, and providers of service.

Public Law 94-142 seems to place no upper limit on the services to be provided to each handicapped child at public expense. The Alabama state situation report concludes:

"If, in the development of the IEP, the local school authorities are aware that they must pay for all services that they identify as being needed by a given child, there may be a tendency simply not to identify many related services actually needed by the child. Many parents simply are not in a position to know exactly what services their child needs and must rely on the findings of trained professionals."

#### PRESCHOOL INCENTIVES

Public Law 94-142 authorized Federal financial assistance to state education agencies for the implementation of statewide plans for preschool and early education for children with disabilities and the acceleration of special services to these children. In order to receive the funds, the plan must be statewide and include as a minimum all children with disabilities ages three to five.

With limited resources and extensive mandates for the school age population and with a comprehensive approach required in order to receive funds, it seems unlikely that many states will take advantage of the incentive immediately. Additionally, the 10 percent disabled child enrollment required in Headstart and day care services financed under Titles IV B and XX of the Social Security Act have not been linked to the preschool incentive program.

The Preschool Incentive program uses the following funding formula:

\$300 times NHC (number of handicapped children ages 3-5) equals PIGF (Preschool incentive grant funds to the states).

In Kentucky the state currently financially supports private preschool programs such as the one operated by UCPA in Ashland. With the financial requirements of Public Law 94-142, Kentucky is rescinding all preschool funds. Wenatchee, Washington is refusing to implement the preschool program.

Kansas is also neglecting current state law for preschoolers because of Public Law 94-142 mandates. There are fights over where responsibility for such programs lie—with public education or social services developmental day care. Furthermore, there is little communication and coordination between these state agencies.

#### DETERMINING EQUAL TREATMENT

In Alabama debate continues over whether or not Public Law 94-142 goes further than guaranteeing equal treatment. As the state situation report speculates, "It is probable that the quality of education provided non-handicapped children could be greatly enhanced by such practices as IEP, smaller classes, procedural safeguards, and increased funds." An assumption is that non-handicapped children may not receive the quality of service that handicapped children receive. Should "appropriateness" of education be guaranteed for all children, regardless of handicap or absence of such conditions?

The questions of equal treatment under Public Law 94-142 and nondiscrimination under Section 504 protections involve the concept of reasonable accommodation. The basic premise is that all things are not equal among handicapped and non-handicapped children, thus, reasonable accommodation must be made to the child's handicap in order to ensure equal opportunity. The premise involves the concept of equalizing opportunity. It is not unequal to provide higher cost services to handicapped children if such services are required to accommodate the handicap. The key issue is the concept of reasonableness, particularly as it relates to cost factors.

#### OTHER IMPLEMENTATION PROBLEMS

##### Teacher preparation/staff development

Failures to develop in service training programs for teachers and associated personnel have been documented in Ohio, Maine, Missouri, California, and Maryland.

##### Vocational programs

Kansas City, Missouri is experiencing a lack of sufficient vocational programs in grades 7 to 12.

### *Postsecondary education*

In Kansas and California there is a reluctance to accept special education students in postsecondary education settings. In Kansas Vocational Education is reluctant to target on special education, and there is little communication between Vocational Education and Special Education.

### *Summer programs*

The development and financial support of appropriate summer programs for school-age children is a substantial problem in San Mateo County, California.

### CONCLUSION

This paper has outlined a number of problems preventing full Public Law 94-142 implementation in several states. In conclusion, readers should remember a statement from the Maryland state situation report:

"The greatest benefit has been to foster an awareness of handicapping conditions and special needs of persons with a handicap, not only among the public, but professionals as well."

### APPENDIX 1: UCPA AFFILIATES PARTICIPATING IN PUBLIC LAW 94-142 IMPLEMENTATION REPORT

#### *(Affiliate and date of report)*

#### *Affiliates preparing detailed state status reports*

- (1) UCPA of New York State (Robert Schonhorn, Executive Director)—September 7, 1977.
- (2) UCP of Illinois (Jane Chapin, Executive Director)—November 1, 1977.
- (3) UCP of Kansas (Jack Jonas, Executive Director) (John Strickler, Executive Director, KS Advocacy and Protective Services)—November 8, 1977.
- (4) UCP of Central Maryland (Baltimore) (Jane Davis, Assistant Program Director)—November 17, 1977.
- (5) UCP of Birmingham, Alabama (James Dill, Executive Director)—November 18, 1977.
- (6) UCP of Northeastern Maine (Bangor) (Ruth Shook, Executive Director)—November 22, 1977, May 2, 1978.
- (7) UCPA of Greater Kansas City, Mo. (Richard Head, Advocacy Program Coordinator)—March 15, 1978.

#### *Affiliates responding to January 1978 word from Washington article*

- (8) UCP of Eastern Kentucky (Ashland) (Mary Lou Strait, Executive Director)—February 9, 1978.
- (9) Doris Weber, Kansas City, Mo., At-Large Member, UCPA Governmental Activities Committee—February 20, 1978.

#### *Affiliates responding to Public Law 94-142 questionnaire*

- (10) Elsie D. Helsel, Ph.D., Athens, Ohio, Chairperson, UCPA Governmental Activities Committee—December 27, 1977.
- (11) UCP of Puget Sound, Olympia, Wash.—March 27, 1978.
- (12) UCPA of Sonoma County, Santa Rosa, Calif.—March 27, 1978.
- (13) UCPA of King-Snohomish Counties, Seattle, Wash.—March 31, 1978.
- (14) UCPA of Hawaii—March 31, 1978.
- (15) UCPA of Central Arizona (Phoenix)—April 3, 1978.
- (16) UCPA of Santa Clara/San Mateo Counties, Palo Alto, Calif.—April 3, 1978.
- (17) UCPA of Kennewick, Wash.—April 3, 1978.
- (18) UCPA of San Francisco, Calif.—April 4, 1978.
- (19) UCP of Wenatchee Valley, Wenatchee, Wash.—April 6, 1978.
- (20) UCPA of Los Angeles County, Calif.—April 7, 1978.
- (21) UCPA of Alameda-Contra Costa Counties, Oakland, Calif.—April 18, 1978.
- (22) UCP of Central California, Fresno, Calif.—April 18, 1978.
- (23) UCP of Illinois—April 15, 1978.

#### *Excerpts from UCPA of California report*

Kisner, Caroline Orr. "Developmentally Disabled Individuals of Normal Intelligence: Needs Assessment Findings." Palo Alto, California: UCPA of California, February, 1978. Pages 37-45.



*Federal policy background*

Ross, B. Clarke. "The Education For All Handicapped Children Act: A Status Report." Paper Prepared For The UCP of Red River Valley/North Dakota State University Conference on Public Law 94-142 and Section 504 Federal Requirements. Fargo, North Dakota: UCPA, November 17, 1977.

Mr. SIEFF. We want to highlight three different issues about Public Law 94-142, and I feel this is a very hard act to follow, so to speak, because the prior witness has really underscored many of the things that we want to highlight. And in my humble way I will try to point out some of the highlights within our testimony.

The related services section of 94-142 is particularly of grave concern to our particular organization as well as others because of the complicated neurological nature of many of the handicapping conditions.

The related services section is extremely important because more than just educational services are necessary in order to derive the fullest benefit from programs for handicapped youngsters.

We feel that we have a unique contribution to make in the testimony because before 94-142 was enacted, United Cerebral Palsy was in the business of running educational programs, so to speak. So we feel a unique position or we have some unique experiences to share with you.

In addition to that, our governmental affairs office conducted a survey of the related services section of the law a number of years ago, and that is also attached to the written testimony. We wish that also to be considered as part of the record.

Mr. SIMON. It will be entered in the record.

Mr. SIEFF. We feel that partnerships are extremely important in mingling of Federal moneys with local moneys. We have had experience in several of our affiliates, one in Bangor, Maine, where they had as many as six different programs mixing moneys to provide a pre-school service for handicapped youngsters. Not any one of these particular sources of funds was enough to provide the related services with the educational services.

Our affiliate in Chicago also has at least three different sources of Federal and local and State moneys to implement the services that they provide in Chicago, Ill.

We also feel in addition to direct services that United Cerebral Palsy has had a lot of experience in helping to help teachers and parents to understand the related services and learn to communicate with one another as their people are developing the individualized education plans.

We have some suggestions in the written testimony. One suggestion is really to have the full implementation of the interagency agreements that the Bureau of Education for the Handicapped has started with several different other Federal agencies to be sure that programs that ran Head Start and the local education agencies cooperated to see to it that all the children within the differently federally-funded programs are receiving their services.

No amount of funds can really help the interagency agreements as much as consistent congressional oversights and we commend and support this kind of oversight on interagency agreements.

The next item I want to briefly talk about is this issue that the prior witness covered much more dramatically than I could cover. There are very important and necessary services in the private school

sector, and from time to time children and teenagers will need these services, some for longer periods of time than others.

The American Academy for Cerebral Palsy and Developmental Medicine, at a recent meeting in San Francisco, stressed the fact that during the growth spurt period of the adolescent, it is extremely important to have intensive therapeutic intervention.

Sometimes this is not always available in the public education sector and private schools may need to be utilized for this particular kind of period. After that period the child could go back into a more normalized setting and less restrictive environment.

The third section we want to highlight upon is the individualized education plan and the due process procedures. Congress, in its wisdom, hit upon the nugget, for when this law was written without—and I want to underscore without—full implementation of these two particular sections of the law, there will be no appropriate education for the handicapped in the United States. For the first time parents have recourse to input on their children's educational planning, and if they are not satisfied, there is a procedure which they may go through.

BEH is to be commended over and over again at this beginning effort to implement the kind of things that are going on in the United States. As I travel to different States, I find that many State education agencies now do have these procedures available for parents to follow. Sometimes there are problems in the local education agencies in having parents understand the procedures.

Another area of concern, and two parents who were professionals testified before this committee prior about their own children's individualized education plans. These parents are having problems in the local education agencies, and our feeling is if parents who are trained teachers and trained occupational therapists working with the bureaucracies of their own States are having problems with implementing their children's individual IEP, what about parents who are not as articulate and aware? Retribution is feared on the part of some parents by school officials if they make a problem, so to speak, when they are having their particular planning session with the local school district. Parents do not always understand the jargonese used by the psychologist, as the psychologist is evaluating and reporting the psychological result of tests upon which the decisions for placements are being made.

We applaud and commend again BEH in their beginning efforts, but we want to underline and stress that these are beginning efforts in that Congress in its wisdom will hopefully allow BEH as much latitude as possible in implementing the intent and the letter of this law.

Mr. SIMON. Thank you very much.

If it is all right with the other members, we will take the last member of the panel and then ask any further questions the members have.

Patsy Poché, president of the Epilepsy Association of Louisiana.

#### STATEMENT OF PATSY POCHÉ, PRESIDENT, LOUISIANA EPILEPSY FOUNDATION

Ms. Poché. Mr. Chairman, members of the subcommittee, thank you for inviting me to speak today on behalf of the 2 million Ameri-

cans with epilepsy. I am Patsy Poché, the director of the Children's Center at LSU Medical Center in New Orleans, which provides educational intervention services for multiple-handicapped preschool children, and chairperson of the Epilepsy Foundation of America, State Implementation Committee of the National Task Force, which is responsible for carrying out the recommendations of the congressionally mandated commission for the control of epilepsy and its consequences.

Thanks to my work with the national task force and with my own professional training and education, and as the parent of an epileptic child, I feel I am familiar with the educational needs of children.

I think I would like to deviate 1 minute from my prepared testimony, because I was sitting here this morning listening to Edward and reflecting, and maybe it is of great importance to a group like you, but I have a son that will be 15 next Monday. At age 3, 12 years ago, he suffered from severe myclonic seizures, from 40 to 50 a day, with no speech development. Now, at age 15, because of education interventions and medical intervention which was all paid for privately by my husband and myself, who had the funds to seek this, he is now an honor student and a sophomore in high school, and I guess a lot of what I would like Public Law 94-142 to do is make these services available to all children and not just the few of us who can afford them.

I had not planned to say that today, but when I looked at Edward here at 14 and think how far some children have gone because they have had families with the initiative or the financial means to secure that success for them, I think we should make sure that all children receive those advantages.

Mr. SIMON. We thank you. And your full statement will be entered in the record if you want to depart from it at any point.

We thank you for that statement, which is perhaps as significant as anything else.

Ms. POCHÉ. Let me begin by saying that the Education for All Handicapped Children Act is one of the most impressive pieces of legislation that Congress has ever enacted. I am proud to say that my State of Louisiana ranks 10th in the Nation in terms of providing educational services to handicapped youngsters.

I would like to just touch briefly on the special education needs of children with epilepsy. Educational problems in youngsters with seizure disorders are common, and stem from a variety of sources. A teacher's attitude can also be a serious problem if he or she does not understand the disorder and harbors misconception about its origin or effect upon the child. Consequently, Public Law 94-142's requirement that each child have developed for him or her an individual education plan is extremely important for a child with epilepsy whose needs and abilities will vary considerably, depending on the severity of the disorder and its psychological and/or behavioral impact.

I would like to address several specific areas in which Public Law 94-142 has had a significant effect on the education of children with epilepsy and other disabilities. Speaking from my own experience as director of a program that services handicapped infants and preschoolers, I can tell you that special preschool programs for handicapped children are very valuable because early detection is so important for

children with seizures. I am happy to report that as a result of the Public Law 94-142 mandate many local educational agencies have significantly expanded their screening programs. Moreover, if these screening programs give proper attention to detecting seizure disorders at an early age as ours do in Louisiana, then many children with epilepsy will be spared the psychological and/or learning problems that can be associated with this disorder.

In Louisiana, as a result of the Handicapped Education Act, we initiated an aggressive program designed to screen, evaluate and provide services for handicapped preschool youngsters. In fact, the law in Louisiana regarding special education now specifically allows local educational agencies to provide educational intervention for children with serious handicapping conditions starting at birth. We feel that this service will not only help to better prepare a handicapped child for school, but will in some cases provide the intervention necessary to reverse or ameliorate a condition such as epilepsy which might otherwise have become a lifelong handicap.

I want to make it perfectly clear that we strongly support the requirement that a child be educated in the least restrictive environment. In Louisiana, as a result of this provision many children with seizure disorders, who prior to the enactment of this law received homebound instruction, are now in public schools. The Epilepsy Commission documented that some 10 percent of persons in mental health facilities and 30 percent in mental retardation facilities have a seizure disorder.

In Louisiana, as a result of Public Law 94-142, educational programs for children in institutions are now administered by the State education agency and have been significantly improved. For example, educational programs are now more carefully tailored to respond to the handicapped child's special needs. In addition, the staff hired to provide educational programs in these institutions are now much more appropriately qualified.

One of the most important provisions in Public Law 94-142 is the requirement that parents and other consumers be involved in planning, reviewing, and implementing the law in their own State. In Louisiana, we have been very pleased with the effort that the State education agency has made to solicit our input. In addition to simply being asked for comments on the State plan as a finished product, the Epilepsy Association has been invited to participate in the development of the department's long-range 3-year plan on educational services.

Public Law 94-142 not only guarantees every child the right to education; it also pledges that handicapped children will be provided with related services to meet their unique needs and thus enable them to take full advantage of their education. For a child with epilepsy, however, medical services beyond diagnosis and evaluation can be essential if he or she is to remain in public school. Youngsters with epilepsy are not a homogenous group. Most need a regular medication and some degree of medical supervision. To achieve maximum seizure control, a youngster must take anticonvulsant drugs usually two or three times a day. A special need of a child with epilepsy points to the need of a well-coordinated mechanism to insure the proper relationship between education and medical services.

The drafters of Public Law 94-142 acknowledged the need of this type of integrated medical program which includes health services, but,



at the same time, recognizes that such services were not the responsibility of the educational system. Unfortunately, regulations did not say where the responsibility for providing such health services would lie. As a result, various State agencies now play pass-the-buck, and many children go unserved. Effective interagency cooperation is obviously one approach to the problem. However, in Louisiana, which is the only State in the country where the State education agency is in charge of all education services to handicapped youngsters, effective interagency cooperation has been difficult to obtain.

For example, we have tried to coordinate our special education program with the Medicaid EPSDT program—Early and Periodic Screening, Diagnosis, and Treatment program. However, the cooperation we have managed to extract thus far has mostly been on paper, although we are encouraged by recent progress by these agencies to develop a more comprehensive plan for coordinating education and health services.

I fully realize that part of the problem is that the mandate of the EPSDT program needs to be broadened. Enactment of the proposed Child Health Assurance Act now before the House Interstate and Foreign Commerce Committee would certainly help by providing more appropriate services for children with epilepsy and by designating LEA's as providers.

It is extremely important that the gap that now exists between education and medical services and our public schools be filled immediately. For children with epilepsy, the provision of adequate health services can mean the difference between being educated in a regular classroom environment or being isolated at home or in a special school or institution.

I thank you for giving me the opportunity to testify before you today, and on behalf of the 2 million Americans with epilepsy. I thank you for your interest in continuing to improve educational programs for handicapped children.

[Prepared statement of Patsy Poché follows:]

PREPARED STATEMENT BY PATSY POCHÉ, PRESIDENT, LOUISIANA EPILEPSY ASSOCIATION

Mr. Chairman and members of the Subcommittee, thank you for inviting me to speak today on behalf of the two million Americans with epilepsy.

My name is Patsy Poché. I am Director of the Children's Center at the Louisiana State University Medical Center, which provides educational intervention services for multiply-handicapped preschool children. I am also President of the Louisiana Epilepsy Association and Chairwoman of the Epilepsy Foundation of America State Implementation Committee of the National Task Force, which is responsible for carrying out the recommendations of the Congressionally mandated Commission for the Control of Epilepsy and Its Consequences. Due to my work with the National Task Force and my own experience in Louisiana, I feel I am familiar with the educational needs of children with epilepsy and what Public Law 94-142 has done to address these needs.

Let me begin by saying that the Education for All Handicapped Children Act, Public Law 94-142, is one of the most impressive pieces of legislation the Congress has ever enacted. By mandating that all disabled children have available to them a free appropriate education which emphasizes special education and related services designed to meet such children's unique needs, the Congress has assured that the handicapped children of our nation will truly be brought into the mainstream of society in ever-increasing numbers. I am proud to say that my own state of Louisiana ranks 10th in the nation in terms of providing these educational services to handicapped youngsters.



I would like to touch just briefly on the special education needs of children with epilepsy. Learning Problems in youngsters with seizure disorders are common, and often stem from a variety of sources including undiagnosed and subtle learning disabilities, the psychological and behavioral problems that often accompany epilepsy, mild or severe retardation, or from over- or under-medication. However, difficulties in school are not necessarily the result of epilepsy alone. A teacher's attitude can be a serious problem if he or she does not understand the disorder and harbors misconceptions about its origin or effect upon the child. Several studies made available to the Epilepsy Commission suggest that at least one-third of the school children with epilepsy suffer from emotional and adjustment problems as a result of both the disorder itself and the attitudes of significant others, such as classmates, teachers, neighbors, etc. Consequently, the Public Law 94-142 requirement that each child have developed for him or her an individual education plan, is especially important for a child with epilepsy whose needs and abilities will vary considerably depending on the severity of the disorder and its psychological and/or behavioral impact.

I would now like to address several specific areas in which Public Law 94-142 has had a significant effect on the education of children with epilepsy and other disabilities.

#### PRESCHOOL INITIATIVES

Speaking from my own experiences as Director of a program that serves handicapped infants and pre-schoolers, I can tell you that special pre-school programs for disabled children are enormously valuable.

Public Law 94-142 mandates that appropriate education be made available to all handicapped children beginning at age 3. The Epilepsy Commission also recognized the value of early intervention, both in terms of seizure control and education, and recommended that local education agencies initiate special programs for children with epilepsy and other disabilities at age 3. The Commission found that as many as 80 to 90 percent of all children with epilepsy could attend regular school if given early treatment and services.

Because early detection is so important for children with seizure disorders, I am happy to report that, as a result of the Public Law 94-142 mandate, most local education agencies have significantly expanded their screening programs. Moreover, if these screening programs give proper attention to detecting seizure disorders at an early age, as the Epilepsy Commission recommended, and as ours do in Louisiana, then many children with epilepsy will be spared the psychological and/or learning problems that can be associated with this disorder.

In Louisiana, as a result of the Handicapped Education Act, we initiated an aggressive program designed to screen and provide services for handicapped pre-school youngsters. In fact, the law in Louisiana regarding special education for the handicapped now specifically allows local education agencies to provide educational intervention for children with serious handicapping conditions. We feel that this service will not only help to better prepare a handicapped child for school, but will, in some cases, provide the intervention necessary to reverse or ameliorate a condition (such as epilepsy) which might otherwise have become a lifelong disability.

#### PERSONNEL PREPARATION

The Education For All Handicapped Children Act specifically recognizes that disabled youngsters have varied needs; hence, the requirement that an Individual Education Program (IEP) be developed for each child. However, we are keenly aware that if handicapped youngsters are to be assured of receiving an appropriate education, school personnel must be adequately prepared to meet this challenge.

For the child with epilepsy it is especially important that teachers and other school personnel be trained to understand and respond to his or her special needs. As I stressed earlier, a teacher's attitude can present a serious problem if he or she does not understand epilepsy, believes that the child is slow, or is fearful that the child will have a seizure in the classroom.

Since the enactment of Public Law 94-142, an impressive number of educators have received special training. Over three thousand new school personnel have been trained to work with disabled pre-schoolers. In addition, the Bureau of Education for the Handicapped reports that it expects to provide inservice special education training to over 30 thousand special educators and support personnel, and over 40 thousand regular education personnel. Moreover, recognizing that in the past not all teachers received appropriate training in disorders such as epilepsy, the Bureau has asked that all new applicants have funds for personnel

preparation focus on training teachers to deal with hidden handicaps. We applaud the new requirement.

In Louisiana, we have actively pursued the goal of providing all teachers with information and training on seizure disorders. The Epilepsy Association of Louisiana, in conjunction with Louisiana State University, is conducting a special seminar program that will provide all students in teacher training with adequate background knowledge on epilepsy. We expect that as a result of this program young teachers will not only be better prepared to deal with a child with epilepsy in a more enlightened fashion, but will also be able to detect less noticeable types of seizure disorders, such as absence seizures, and refer the child for treatment.

I would like to point out that both the Bureau of Education for the Handicapped personnel preparation initiatives and our own program in Louisiana directly respond to the Epilepsy Commission's recommendation that schools of education require all teachers in undergraduate training to take a minimum of one course hour in Special Education for the Handicapped, including epilepsy.

#### SERVICES TO CHILDREN IN INSTITUTIONS

The Public Law 94-142 guarantee of a free and appropriate education has been beneficial for all handicapped children in Louisiana, including those in public institutions. The Epilepsy Commission found that over three-fourths of the children with epilepsy have multiple handicaps, some so severe that they require institutional services. In addition, a study conducted for the Epilepsy Commission revealed that in the Chicago School System, approximately 200 children identified as having a seizure disorder were in residential facilities.

I want to make it perfectly clear that we strongly support the Public Law 94-142 requirement that a child be educated in the "least restrictive environment". In Louisiana, as a result of this provision, many children with seizure disorders who, prior to the enactment of this law received "homebound" instruction, are now in public schools. However, the Epilepsy Commission documented that some 10 percent of persons in mental health facilities and 30 percent in mental retardation facilities do, in fact, have a seizure disorder. Therefore, we must also concern ourselves with the quality of education these children are receiving.

In Louisiana, as a result of Public 94-142, educational programs for children in institutions have been significantly improved. For example, education programs are now more carefully tailored to respond to a handicapped child's special needs. In addition, the staff hired to administer educational programs in these institutions are now much more appropriately qualified.

As President of the Louisiana Epilepsy Association, I continue to emphasize and work toward the goal of deinstitutionalization. However, for those children who must remain in institutions, we, in the Louisiana Epilepsy Association, have worked and will continue to work with these facilities, as the Epilepsy Commission recommended, to assure that the children receive an appropriate education guaranteed by Public Law 94-142.

#### CONSUMER PARTICIPATION

One of the most important provisions in the Education For All Handicapped Children Act is the requirement that parents and other consumers be involved in planning, reviewing and implementing the law in their own state.

According to regulations, prior to the adoption of the annual program plan for Public Law 94-142, the State Education Agency must make the plan available to the general public, hold hearings and provide an opportunity for comment. In Louisiana, we have been very pleased with the effort the State Education Agency has made to solicit our input. In addition to simply being asked for comments on the state plan as a finished product, the Louisiana Epilepsy Association was invited to participate in the development of the department's long range three year plan (fiscal year 1980-82) for educational services for disabled children.

Helping parents and other consumers understand their rights and responsibilities under the Handicapped Education Act is just as important, however, as providing advocates with access to the state planning process. In Louisiana, we have made a good deal of progress toward that goal. Over 24 thousand parents and child surrogates have received information on training in specific provisions in the new education law relating to the "least restrictive environment" requirements, the purpose and scope of the Individual Education Plan and the law's procedural safeguards.

I believe that it is vitally important that parents and advocates be informed about and involved in implementing Public Law 92-142. As Chairwoman of the Task Force's State Implementation Committee, I have and will continue to advise local and state epilepsy groups around the country to become knowledgeable about and involved in planning for programs and services, especially education, for children with epilepsy. I feel certain that the benefits from this kind of involvement will be increasingly evident as we continue to make progress toward a free appropriate and responsive education program for all youngsters with seizure disorders.

#### THE IMPORTANCE OF HEALTH AND RELATED SERVICES

Public Law 94-142 not only guarantees every child the right to education, it also pledges that handicapped children will be provided with "related services" to meet their unique needs and thus enable them to take full advantage of their education. The term related services includes psychological services, counseling, medical services for diagnosis and evaluation purposes, etc.

For a child with epilepsy, however, medical services beyond diagnosis or evaluation can be essential if he or she is to remain in public school. Although, as I have stressed, youngsters with epilepsy are not a homogenous group, most of them need regular medication and some degree of medical supervision. It is estimated that 50 percent of all children with seizure disorders can be totally seizure free, and another 25 percent will have less severe seizures if given proper medication. However, to achieve maximum seizure control a youngster must take anticonvulsant drugs usually two or three times per day, and have his or her blood level monitored at regular intervals to assure the proper combination and/or dosage of medication is being administered.

The special medical needs of a child with epilepsy clearly points to the need for a well coordinated mechanism to insure the proper relationship between education and medical services. The drafters of Public Law 94-142 acknowledged the need for this type of an integrated education program which included health services, but at the same time recognized that such services were not the responsibility of the education system. Unfortunately, regulations did not say where the responsibility for providing such health services would lie; as a result, various state agencies now play "pass the buck" and children go unserved.

Effective interagency cooperation is obviously one approach to the problem. The Epilepsy Commission specifically recommended that all relevant state plans demonstrate how public schools and child health agencies can reinforce each other's responsibilities for health needs of handicapped children.

The Bureau of Education for the Handicapped acknowledged in its report to Congress that "although voluntary cooperation among state agencies has worked very well in some places, interagency coordination will doubtless continue to be a troublesome matter where state education agencies lack state statutory authority for assuming responsibility over other state agencies that serve the handicapped." However, even in Louisiana, which is the only state in the country where the state education agency is in charge of all education services to disabled youngsters, effective interagency cooperation has been difficult to obtain. For example, we have tried to coordinate our special education programs with the Medicaid Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT). However, the cooperation we have managed to extract thus far has mostly been on paper, although we are encouraged by recent efforts by these agencies to develop a more comprehensive plan for coordinating education and health services. The obvious result of this lack of cooperation and confusion of responsibilities has been that very few children identified or suspected of having a seizure disorder have been served.

I fully realize that part of the problem is that the mandate of the EPSDT program needs to be broadened. Enactment of the proposed Child Health Assurance Act (CHAP) now before the House Interstate and Foreign Commerce Committee would certainly help by providing more appropriate services for children with epilepsy and by designating schools as providers. Last year's House Committee report on CHAP points out that "schools have distinct advantages in terms of access to children and should not have been overlooked as outreach and assessment sites". However, if children with epilepsy and other types of disabilities that require a degree of supervision and care are to be adequately served in our nation's public schools, interagency cooperation must be pursued more vigorously (perhaps mandated) at both the state and national level.

Is it extremely important that the gap that now exists between educational and medical services in our public schools be filled. For children with epilepsy the provision of adequate health services can mean the difference between being educated in normal classroom environment, or being isolated at home or in a special school or institution.

As the Epilepsy Commissions' report stressed, in programs where handicapped and non-disabled children learn together, the stigma—the perception of a handicapped child as “different”—can be eliminated, averting many of the later social difficulties of the child with a handicap.

I thank you for giving me the opportunity to testify before you today, and on behalf of the two million Americans with epilepsy, I thank you for your interest in continuing to improve educational programs for disabled youngsters.

Mr. SIMON. Thank you, Ms. Poché.

May I direct a question first to you, if you could be more precise about what you are talking about on the coordination of medical and educational services.

Ms. POCHÉ. Within interagency agreements in the related service area, there are many children, as I say, epileptic children especially, who, unless the proper medical service is available, will not be physically able to be in a classroom, and somewhere there has to be a coordination of agencies, and they have to work with the education; education has to understand the medical problem. They have to know the services that are available; and there has to be a coordinating agency, I feel, with many of these children, for it to be successful.

Mr. SIMON. The screening process, or the diagnosis process, that takes place now, does that pinpoint that kind of thing, or not?

Ms. POCHÉ. It may or may not, but many times it is a screening and after that there are no services that are available and treatment for the child. So I often ask what have we done many times when we have screened the child.

I am not sure that all of this is necessarily the responsibility of 94-142, but I think there is a deep need for some strengthening of working out interagency agreements within States so that the right person pays for the right service, and that those services are coordinated by some agency.

Mr. SIMON. Are you finding in the case of epilepsy victims that there are young people who come from families where they are, No. 1, not aware of services, not aware of medication, or, No. 2, can't afford it?

Ms. POCHÉ. A combination of all, and as far as epilepsy is concerned with many children, the family cannot afford to purchase the medication that the child needs. So that, as I say, I can see schools sometimes functioning to assist the families in finding the funds to do this—not necessarily that public education should provide this treatment, but working with the family, having an interagency agreement with an agency that has funds or providing the medication the child needs.

This would be the same as providing braces for the crippled child that he needs to come to school, or providing all of these type devices that many children will have to have to prosper from their education.

Mr. SIMON. Mrs. Akerley, or Mr. Siepp, would you care to comment on this problem?

Mr. SIEPP. The question about related services and your coordination between different agencies, yes, I have an example I forgot to specify.

I talked to a teenage young woman with cerebral palsy in Riverside or San Bernardino County, Calif. She was going to a regular high



school in a wheelchair and was rather physically disabled but a bright young teenage girl. In that particular area of the country buses come to pick up everybody because of the vast distances in that particular part of California.

Her brothers and sisters went to the same high school as she went to but she couldn't ride on their bus because the bus was not accessible for a wheelchair. And, in addition, she had to register for a special orthopedic class which she did not need in her own education plan, in order to get the bus that picked up the orthopedically-handicapped children to come to her house.

So where there are specific regulations already in place, sometimes the regulations interfere with the coordination of services. Her parents were both teachers and knew how to handle and manipulate the system, but I fear for those parents who are not able to negotiate the particular bureaucracies.

Mr. SIMON. Mrs. Akerley?

Mrs. AKERLEY. Yes, we raised this issue when we testified before the House Interstate and Foreign Commerce Committee on CHAP and their problems in providing health services and educational services, and it seems to me some very minor revisions might solve both aspects of it.

One problem with EPSDT, which Mrs. Poché referred to is the fact they are not reaching all the children that are entitled to services. They are not screening all the kids that should be screened and when they screen them, that is all some of them get.

Part of that problem is that the people that program was designed to help have a mistrust of certain upper middle-class institutions and do not want to use them. Most people in a community trust the school. It seems to me it would not be a very difficult thing, especially in areas like my own, where we have empty classrooms, to begin putting clinics in schools. People would trust them, and you would take the first step toward coordinating health and education services.

It probably would cost a lot less than making everyone go to school one day and then take a trip to the clinic. We would be using the trust in the school as a focal point in providing the services. What is more natural for the child with disabilities that needs medical services than having everything on the same site.

That would be my suggestion. How to do it; that is your problem.

Mr. SIMON. Thank you.

Do you find large numbers of students in any of your three experiences who are simply waiting in line for screening or diagnosis, particularly in, say, the New Orleans system? In the large systems we have heard some reports that that is a problem.

Ms. POCHÉ. It is a problem, and it is a problem because the family does not go out and seek the screening, and we have established the screening in such a situation that basically the parent has to go seek it. It is not in their neighborhood. In New Orleans, it is available, down at the State Health Building, or at a big charity, or some places like this. But the way Mary was saying, if that same screening was available around the corner in the school where their children go to school, people would take and use much more of what we have estab-



lished if it was something that they understood, and very accessible to them, especially in large cities and in rural areas.

Mr. SIMON. But you don't have, say, 1,000, or 5,000, or 10,000 who are on the list for one of your school districts, people who need diagnosis and want it, but simply haven't been reached yet?

Ms. POCHÉ. No; we did before 94-142. Waiting lists in the State of Louisiana were excessive, but due to 94-142, as far as screening and evaluation, that gap has been greatly closed, thanks to 94-142.

Ms. ROR. I wanted to add to that, if I might, there are waiting lists in other States. I am sure, and part of that is centered around who pays for what in 94-142. It is agreed that there are related services, but there is still a problem as to who acts to provide the service.

Just to add to what Mary and Ms. Poché have already stated, we have tried to stress in our testimony at length that the increase in the agreements are a very good first step. This kind of coordination and cooperation needs to go on between not just education, but the whole gamut of programs.

One thing that we want to respectfully suggest to the committee is you may wish to think about stressing or articulating who pays the first and last dollar. Everybody agrees that handicapped children across the country may need related services, particularly for cerebral palsy kids; they are going to need a gamut of physical speech and occupational therapy early and often, if you will.

No one agrees, however, as to who is going to definitely start giving it, who is going to put the first dollar up. And so you may wish to think about that as a possible opportunity.

Mr. SIMON. Thank you very much.

One final comment and then I will yield to my colleagues. Mr. Siepp, you touched on one point I have discovered is a problem, that psychologists, or whoever is making that evaluation, and the parents are in two different worlds, talking two totally different kinds of language.

I don't think you can correct it by regulation, but there ought to be an increasing awareness that somehow that huge chasm that sometimes exists has to be bridged a little more if we are going to give the young people the kind of opportunities they need.

Mr. COLEMAN. I would like to follow up on what Mr. Akerley said and this is directed to Mr. Siepp, too. If cerebral palsy is detected early, I understand that proper education can substantially overcome its effects by the age of 5. You cite the program in Bangor, Maine, as an example of what can be done.

Do you have an estimate on the number of children who, if they were screened and properly educated between zero and 3 years of age, could be almost removed from the list of disabled?

Mr. SIEPP. Your question is very pertinent not only to our organization but to the entire scientific community. I cannot point to any absolute, positive proof of that particular thing except to point out that when a child of any developmental disability or suspected developmental disability—and I underscore suspected because a parent of a child who thinks her child has something wrong is giving as many wrong messages and is in a state of psychological problem within herself—and a lot of other things can develop as a parent who has an accepted diagnosis of something that is wrong.

So many intervention programs that start early, some of these children who go in did not have a developmental disability that was specific to begin with but that family and that child needed the same encouraging processes as the parent of a child who had a specifically diagnosed problem.

So, some early intervention programs will claim lots of success but the original problem may not have been a specific cerebral palsy or a specific epilepsy or specific medical diagnosis.

The answer to your question is yes. Children will improve in all of these programs. They will be able to utilize the newest communication devices where they can learn to communicate through many alternate means, and this is a problem, again, with related services.

We have people who have been in the position of power in some areas for many years who have trouble accepting new knowledge about ways to communicate. They are in the position of power where they will not approve payment of many of these new communication devices. There are many new thrusts that will enhance in some instances—I don't want to say, eliminate the problem, but make the person be able to perform as a better citizen in our democracy and be a contributor rather than a person who is not going to be a contributor.

Mr. COLEMAN. How many States have the Louisiana-type screening from birth?

Ms. POCHÉ. I do not know exactly. When we do talk about prevention, early intervention, and can it reverse a situation, I think with epilepsy this is one disability that in many cases can be reversed; the child can ultimately be a normal child and function for the rest of his life with early intervention.

I do know that 94-142 basically in one term mandates intervention at age 3, that also it excuses States that do not provide that for regular children. So, consequently, I think there are only 17 States in the Nation now that are providing preschool intervention at age 3. I think this is one thing that needs to be looked at very closely in the law, excusing these States when documentation of early intervention in many disabilities is very strong.

Mr. COLEMAN. Let me ask you: Do you feel that intervention before age 3 is necessary?

Ms. POCHÉ. I do, quite strongly. In Louisiana, we are working with 35 infants from zero to age 3 with severe conditions. We are working with a child who hit his third birthday, who was institutionalized at birth. We have this child walking in a walker, smiling and doing more or less visual communication with the world. He is out of the institution. There are many more.

You have saved a lot of bucks on a lot of those kids with early intervention.

Mr. COLEMAN. In the long term, you are saving dollars.

Ms. POCHÉ. Right. At the medical center, this is a very extensive program with funds from BEH and State funds. But there we are still only spending, with intensive intervention with all types of across-the-board OTP speech therapy, psychological services, less than \$4,000 a year on those zero to 3 infants.

Many of the infants we have worked with have left and gone on into regular school programs. Others have been mainstreamed in special education programs. I think there is no doubt of early intervention being beneficial.

Mr. SIMON. Will the gentleman yield?

Mr. COLEMAN. Yes, Mr. Chairman.

Mr. SIMON. \$4,000 per infant. What is the amount statewide?

Ms. POCHÉ. As I say, although in Louisiana it is stated that LEA's may provide services to zero to 3 populations, it is not mandated. It will be mandated in 1985 that all LEA's do provide services to infants the same as preschoolers.

So there are, at this time, only isolated infant programs in Louisiana.

Mr. SIMON. Thank you.

Mr. COLEMAN. Just one comment, Mr. Chairman, that follows from the comment you made. I think it is important to note that the physicians and experts who are involved compound the problem through speaking in academic and medical terms that nobody else can understand.

Mr. MILLER. Sort of like politicians talk.

Mr. SIMON. Yes.

Ms. ROY. I just want to add that I can get the figures if you like.

Mr. SIMON. Thank you.

Mr. STACK. I don't think I have any direct questions of the witnesses, Mr. Chairman, but I do think one thing I have discovered by coming here this morning, is the importance of these oversight hearings. I think it is important for all of us who serve on this committee to hear from the people with the actual experience in the field and from personal involvement what is going on.

I have an idea of what is happening in my own community, but I do think the number of things pointed up today are both encouraging and discouraging. The witnesses have expressed great hope for children through early intervention; at the same time, we need to continue to look and try to improve what we are doing. I think this is a great opportunity that you have given us by initiating this oversight hearing. I hope we will see more of the same.

Mr. SIMON. Mr. Erdahl.

Mr. ERDAHL. Thank you, Mr. Chairman. Just a brief observation and perhaps a question.

What we have heard from this panel is that the thing, we in society, and Congress should be stressing is very early detection, early intervention. I think it has to be in the preschool age.

I have a specific question for the lady from Louisiana. Can epilepsy be caused at any time in life even though oftentimes it is in infancy and is the early detection test a simple test and something that could be routinely given to every small child or every infant?

Ms. POCHÉ. There is really not a test per se that can be given to detect seizures but with a parent being in a clinic or through a diagnostic clinic screening program, certain questions that would be asked to a parent would be the beginning of detection in a child like this.

Mr. ERDAHL. Maybe I didn't make my question clear. It seems if a seizure occurs in a child, then the parent is aware there is something that should be checked into. But I guess I am asking, is it feasible to have some type of blood test or a brainwave scan to detect this potential before there is a seizure?

Ms. POCHÉ. The only thing that could be done would be an EEG which can detect seizure before. But it is beyond that because I don't

know if we will ever have that. That would be a very expensive type screening program. But in rural areas and in inner city areas like New Orleans there are many children that have visible seizures for several years before it is ever reported by the family.

That is hard to believe in this day and time but that does still happen. I think if there were screening clinics in those neighborhoods where parents were asked questions which are on many of the screening questionnaires—does the child ever shake or jerk or pass out?—that would be one of the main ways that would be detected.

Mr. ERDAHL. Thank you, Mr. Chairman.

Mr. SIMON. Mr. Beard.

Mr. BEARD. I have no questions.

Mr. SIMON. Mr. Miller.

Mr. MILLER. In your discussion of reaching out to this population it is not necessarily that periodic screening is in a position to do that because that is the kind of program that is related to income in terms of availability. What you are talking about is the entire population and the ability to screen so-called normal appearing children who appear normal to their parents and instructors.

You are talking about two different programs. In a way you are saying if we could have early screening for all children that would be terribly helpful and at the same time you are saying if we had a program in the schools where it would be readily available to the entire population, we would be doing a better job of screening.

What we appear to have is a 94-142 program that should be readily available in the schools and then we also have the early periodic screening program which isn't extensive enough because it is only for low-income children.

Ms. POCHÉ. When we speak of screening I think in terms of epilepsy screening it is much more comprehensive than that.

Mr. MILLER. Than which?

Ms. POCHÉ. The screening where we would look for a seizure condition. Screening is a broad situation. There are children who may see a doctor regularly but may never be screened for hearing loss or vision loss. In many of the other type areas, that type of screening is covered.

Mr. MILLER. That is my point. We are asking one program to do something that it is not set up to do in terms of discovery of various deficiencies that children have that are related to allowing them to have normal life activity, if you will.

I have two children who certainly on the outside appear to be very normal but after extensive screening we have found tremendous flaws that have affected their school work and are affecting their ability to advance in daily life. None of the teachers picked that up. None of their doctors picked that up. A group of specialists picked that up.

So I question whether we really have created between these two programs a program that will keep kids from falling through the cracks. It appears they will fall through the cracks if early screening is not set up to deal with these problems or if 94-142 is not extensive enough to catch enough children.

I am just trying to understand what the problem looks like.

Ms. POCHÉ. I think that is possible. I am not familiar to any extent with the CHAMPS program. Perhaps it might suggest an extension of the EPSDT to be more extensive than it presently is at this time.

When we are talking about the school and EPSDT, the crippled children's money and everything, we have probably in most cases maybe all the funding is out there but there is not the interagency type condition that allows a child to prosper from all of the available services.

I wonder if it should be education's position to look at who is going to coordinate this service.

Mr. MILLER. This has always been true with children's services. All the services are there but they can never find the child. In Indianapolis and Atlanta and New York there have been programs to make all those services, whether law enforcement or counselling or job opportunities or health, come to the school and be there where the child can go around the corner and see the counselor or probation officer or a physician or what have you.

The school is where the children are but the services are all the way across town. There is no coordination in any of these children's services so we don't know whether really more funding is necessary because you point out we have all of these select groups and lobbies to keep increasing their segment of the pie but we don't know if in fact we are baking a second pie because the first one is not coordinated.

Ms. POCHÉ. I guess what I ask is: Should the educational system be the agency that tries to coordinate the services for a child? Who is going to coordinate the services for the child? As Mary said, who has better contact with the family than the educational system? I don't know.

Mr. MILLER. Thank you very much.

Mr. SIMON. We thank our panel. I mean no disrespect to the other four members of the panel when I say we particularly appreciate your being part of the panel, Ed. If you want me to write an excuse to your teacher for being absent from school today, I will be very happy to do that.

Mr. AKERLEY. Fine with me.

Mr. SIMON. Thank you very much. We have a rollcall. We will take an 8-minute recess at this point.

[Brief recess.]

Mr. MILLER [presiding]. The Subcommittee on Select Education will reconvene.

Due to the fact that the House of Representatives has the Budget Act before it, and Chairman Simon is also subcommittee chairman on the Budget Committee and was forced to stay on the floor, I will conduct the remainder of this hearing.

Our next witness will be Mr. Rutherford Turnbull.

**STATEMENT OF H. RUTHERFORD TURNBULL III, MEMBER, GOVERNMENTAL AFFAIRS COMMITTEE OF THE NATIONAL ASSOCIATION FOR RETARDED CITIZENS**

Mr. TURNBULL. My name is Rutherford Turnbull and I represent the National Association for Retarded Citizens.

I am a parent of a handicapped child. I am an attorney and a professor of public law and government at the University of North Carolina. I am the author of a book on special education under the law and have authored many articles on the subject.



I have been draftsman for the North Carolina General Assembly in writing its own special education laws and I am the parent of a 12-year-old low level, trainable, mentally retarded son.

We have submitted to your staff the formal testimony of the National Association for Retarded Citizens and I request that it be formally entered into the record.

Mr. MILLER. It will be. To the extent that you want to quote from it and summarize it would be helpful.

[Prepared statement of H. Rutherford Turnbull III, follows:]

**PREPARED STATEMENT OF H. RUTHERFORD TURNBULL III, MEMBER, ABC NATIONAL GOVERNMENTAL AFFAIRS COMMITTEE, THE ASSOCIATION FOR RETARDED CITIZENS**

My name is Bud Turnbull. I appear before you today in my capacity as a member of the Governmental Affairs Committee of the Association for Retarded Citizens, an organization composed of approximately 300,000 members who belong to 1,900 local associations throughout the country. Just over one-half of our members are parents of retarded citizens, and approximately one-quarter are professionals in the field.

The association has been active in the area of special education law at State and Federal levels by seeking to have state legislatures and State and local educational agencies, the Congress, and State and Federal courts recognize that retarded children have a right to a free, appropriate public education and to implement that right. It has also recently testified twice before the 96th Congress, in January 1979, and again in March 1979, concerning the education of all handicapped children.

I am an attorney and professor of public law and government at the University of North Carolina at Chapel Hill, N.C. I have considerable experience in special education law and implementation. For example, I am counsel to the State's permanent legislative Commission on Children With Special Needs; advisor to the State Board of Education's Advisory Committee on the Education of Exceptional Children; consultant to the staff attorneys of the Attorney General's office; consultant to and trainer of special education administrators and teachers in local educational agencies; consultant to and trainer of faculty and administrators in the State's community college and higher education system on special education law (including section 504 of the Rehabilitation Act amendments of 1973); coauthor of a book on law and special education and author of more than a dozen articles in national journals on special education law; teacher of local school attorneys, school board members, and school administrators on the subject of special education law. Outside of North Carolina, I have served as a consultant to the State boards of education in Vermont, Maryland, and Utah; and I have done inservice and preservice education to faculties or students at the Universities of Illinois, Vermont, Utah, Louisville, South Dakota, Indiana and at Brigham Young, Johns Hopkins, Bowling Green, and Cleveland State. I have spoken on special education and law at many national conferences (Council for Exceptional Children, Association for Learning Disabled Children, and American Association on Mental Deficiency); and I am a member of the Board of Directors of The Foundation for Exceptional Children. I am a consultant on special education and law to the American Academy of Pediatrics. I am the father of a retarded son and I have been active in his education locally.

The Education for All Handicapped Children Act has made an immense contribution to the education of retarded children. I would like to point out some of the important tangible benefits that retarded children have received from it; the important but less tangible benefits that they, their parents, and special education professionals have received; the contributions the act has made to the education of other children; and the implementation problems that Congress and the Department of Health, Education, and Welfare need to address.

The act has made it crystal clear that all retarded children must be educated. The principle of zero reject has resulted in child find efforts that span the full range of governmental and private agencies. Not only do State and local educational agencies now actively seek to identify retarded children and refer them for appropriate school and other services, but so too do public health, mental health, and social services agencies and private-sector pediatricians, family-care physicians, and psychologists. Indeed, the American Academy of Pediatrics is

preparing a 16-hour curriculum for physicians on identifying developmental delays, referring children for appropriate educational services, and working with school systems to assure that referred children receive special education and related services; the academy's response is directly attributable to the act.

Zero reject also has resulted in retarded children in State and local mental health agencies, psychiatric hospitals, mental retardation centers, and youth-correction facilities receiving special education and related services, many of them for the first time. We cannot over-emphasize the benefits of the act in affecting how children are dealt with in the State departments of corrections especially. While it was possible for retarded children in mental health facilities and programs to receive some (albeit limited) education from mental health agencies, it was nearly impossible to assure that they would receive those services when incarcerated. Thanks to the act, it is now clear that this previously unreachable population is on the brink of being served appropriately.

The zero reject rule is also responsible for increased dialog and cooperation between public and private agencies. Through the act's provisions for service priorities, tuition payment, furnishing related services, and dual enrollment in public and private programs, for example, we are seeing that the more severely impaired children are no longer excluded from an appropriate education. Mental health agencies and the private sector have been implicated in a positive way with the public schools in providing services for these children.

Finally, the principle of non-exclusion has begun to be applied to early childhood programs and to compensatory education (adult-education) programs. Public schools, recognizing that they soon will have to serve children of the ages of five and more, have begun to develop their own pre-school programs or to work with existing mental health, social services, or private pre-school programs. They would not be doing this nearly so much if it were not incumbent on them to educate all retarded children at the age of five. And compensatory education—to replace the "lost" years when a person was excluded from public school because of his retardation—is required by a consent decree in a lawsuit brought by the North Carolina Association for Retarded Citizens against the State of North Carolina.

Not all is well, however. The zero reject principle faces difficult implementation problems, many but not all of which can be solved by Congress if it appropriates funds to the authorized level. Interagency cooperation sometimes is strained, despite (or perhaps because of) the single-agency responsibility provisions of the act. Some private sector profiteering seems to be occurring, particularly around the evaluation of children and the referral of them to private agencies that promise to be able to give the child an appropriate education (one not available in the public schools). Placement of children in private or out-of-state schools or institutions (because local public schools do not have appropriate programs) is not only costly but sometimes a way for public agencies to discharge their responsibilities to those children without having to develop appropriate programs for them. Finally, the lack of transportation is a major logistical barrier for many rural school systems.

A second principle of Public Law 94-142 is nondiscriminatory evaluation. Already we have seen that fair assessments can prevent many children from being misclassified as educable mentally retarded. Fair assessments has cut down on gross discrimination in classification and placement. It also has brought a variety of disciplines into a child's educational and social life, enriching the resources that are available to him. The requirements of parental consent for initial evaluation and of parent participation in the evaluation process also have served to strengthen the bonds between the school and the parent. Fair assessment, for example, whether a child is retarded or learning disabled, is producing appropriate placements and enabling schools to galvanize their resources on the children's behalf.

There remain, however, problems with nondiscriminatory evaluation. It is a costly process. The most useful assessment techniques and instruments are not always available to all who might use them. For example, the multi-cultural assessments validated on Hispanic Americans have not been validated to other minority Americans. There is a serious shortage of school and other governmental personnel who are trained and in place to conduct nonbiased assessments.

The act's requirement that children be given an appropriate education is undoubtedly the second most important provision (the first being the zero reject rule). All public agencies are beginning to individualize their special educational programs in compliance with the Individualized Education Program (IEP) requirements. Thus, mental health and youth corrections agencies are beginning to

follow good educational practices. Through the IEP, parents are better able to assist schools in educating their children, and schools can make their education more relevant to the child's educational and social needs alike. A related benefit has been the increased participation of parents in their children's education and, in a more general sense, in the governance and operation of local educational agencies. Finally, "related services" can be identified and brought to bear on the child's educational needs. It is more and more obvious that speech, occupational and physical therapy, for example, are being made available to retarded children because their IEP's call for them.

It does not seem necessary or desirable to change the definitions of the IEP provisions of the act, to make changes in who may attend IEP conferences, or to modify the required contents of an IEP. Instead, local educational agencies' problems are related to implementation issues—finding trained personnel who have the time to conduct not merely a "paper compliance" but actual compliance with IEP's. One must be suspicious of "wholesale" or standardized IEP content. And there is increasing evidence that parent participation in the IEP development is paid more lip-service than actually implemented. It would behoove all people—parents and school personnel alike—to be better trained in the purposes of an IEP, how one is developed, and why one is useful.

There are other implementation problems concerning "appropriate education," ones not related directly to IEP's. For example, many schools and mental health and public health agencies are confused about some of the definitions of related services, particularly "health" and "counseling" services. One result of the confusion is that some children are not receiving health or counseling services because service providers are unsure whether they must provide the service (for example, are catheterization, suctioning, injection, or other administration of medicine "medical" or "health" services). Another result is that schools, public health, and mental health agencies seem to be competing for the service or, more frequently, schools are being asked to provide services that other agencies normally provide. The problem is to delineate the functions of these agencies.

Some advocates for retarded children are asking schools to provide the "most appropriate" education and are receiving the answer that the act requires only that the schools provide "an appropriate" education. Moreover, there is confusion whether the act requires the schools to provide services on a 12-month basis rather than a 9-month basis. Finally, there is a paucity of related services; there simply are not enough service providers rendering all the necessary services to assure that each retarded child will, in fact, receive every related service he needs.

The requirement that retarded children be placed in the "least restrictive" educational setting is immensely helpful if properly understood and implemented. For one thing, it forecloses the separation of retarded and nonretarded children and brings them together in schools so that prejudices and myths about retarded children can be dispelled. It is likely that long-term integration will yield results concerning attitudes as children are placed in a less restrictive or more integrated environment. The least restrictions rule is also a positive force in preventing children from being inappropriately institutionalized and in returning children from inappropriate institutional placements to community settings. Finally, it enables retarded children to be "peer tutors" to other retarded children, thereby becoming at least their acquaintances if not their friends.

Of course, the "least restriction" principle is not fully understood or implemented. Too often it is the excuse for abolishing separate programs for services for educable mentally retarded children or for denying mainstreamed retarded children the related services that they need and that help them prosper in the mainstream. Moreover, special and regular educators think that the principle is to be applied independently of the "appropriate education" principle; they tend to teach or deal with the behaviors of retarded children (especially when they also fail to pay sufficient attention to whether a retarded child's education is enhanced by regular education placement or whether, at the opposite end of the spectrum, he suffers both educationally and socially from mainstream placement. Finally, inservice and preservice training in how to mainstream retarded children is in an unhappy state. Too few special educators know how to work with regular educators, and vice versa; and too few regular educators have the skills to teach or deal with the behaviors of retarded children (especially when they already have too many children in each class).

Procedural due process and parent participation—the last two principles of the act—likewise have been immensely useful. The former is a potent technique for accountability for both parents and schools (although parents are more in-

clined to call for a due process hearing than schools). Indeed, the mere possibility of a due process hearing often is sufficient to persuade a school or parent to do as the law requires or arguably is in the child's best interests. Parent participation, through IEP conferences, access to student and school records, due process, membership on state-level advisory boards, and consent to initial evaluation and placement, has, in fact, reconstituted the power relationships between consumers and providers, making the former more equal than ever before. Nevertheless, there are approximately 50 issues on which a due process hearing can be brought. The costs of due process hearings to schools and parents are expensive in terms of money and time. Frivolous hearings—unnecessary by any "rule of reason" in interpreting the act and its regulations or avoidable by good faith mediation—are brought. Effective advocacy for parents and schools alike is scant because of the lack of trained personnel, including educators.

The important tangible benefits for retarded children (or their parents), inclusion in school, receipt of special education and related services, fair assessment, and ability to affect service providers, are matched by important tangible benefits for educators—more funds and the legal duty (and hence the legal right) to do what they have been trained to do, educate retarded children. Both the consumers and providers of service are enabled by the Act to work in the same direction—to educate retarded children. And the less tangible benefit—a sense that discrimination is passing, that acceptance of retarded citizens by non-handicapped citizens is increasing, that power relationships are more balanced, and that schools, mental health, and other agencies of government are accountable to the governed—are no less important to retarded citizens and their parents and advocates. Without doubt, Public Law 94-142 is the impetus for all such benefits.

Moreover, individualization of education for nonretarded children is being seen as an important educational technique, and some states already are requiring it for the gifted and talented or the slow learners.

Implementation has been remarkably successful in the few years since the act became effective. Indeed, although there remain systemic implementation problems, they seem less important at this stage than the two major implementation problems (ones that Congress recognized from the outset)—training new professionals and retraining professionals already in special and regular education, and appropriating sufficient funds to cover the excess costs of special education.

The Association for Retarded Citizens stands ready to assist this Committee and the Bureau of Education for the Handicapped in securing the best possible educational opportunities for our nation's retarded citizenry. We thank this Committee for its present and past advocacy on behalf of handicapped people and urge you to continue your outstanding efforts.

Mr. TURNBULL. I want to tell you what this law has meant to my son and me. When Jay was 2½, we found there were no services for him in North Carolina. Accordingly, we had to institutionalize him. He was there for more than 3 years.

Under 94-142, that would not be necessary for us to do anymore in North Carolina and as well as elsewhere if we have early intervention and preschool programs that respond to the needs of young preschool children, and that is attributable to the incentive grant programs in that statute.

Also, in 1975, when we brought Jay back from the institution, we asked the public school to start a program for him. The school's response was, we will start the school program if you will get the teacher, find the students, and pay for the teacher. Of course, they did not know what the law provided at the time.

I quickly informed them, and it was a fairly dramatic confrontation where a person who had been told before, you have to do the work, now tells the schools, you, the schools, now have the legal responsibility to include my son and others like him in public school.

Those are two tangible benefits of the zero reject provisions of the law.



We have heard a lot of testimony about the least restrictive environment and I would like to talk on two or three illustrations of how that works to the benefit of Jay and nonhandicapped children as well. The first 2 years of his schooling, he was in a class in the administration building of the school. We complained about it. Although it was good for him to be exposed to the school principal and folks like that, after 2 years, that program was moved into a regular elementary school as a result of the requirement for least restrictive placement.

In that regular school, he is receiving peer tutoring from gifted or talented children. He also is doing tutoring on his own of the children in the early preschool program in the very same system, believe it or not.

I think this illustrates the beneficial effect that placement of a non-handicapped child together can have.

In addition, Jay has become a very visible person not only because of his handicap but simply because he is there at the school. It matters very little where we go in Chapel Hill or other parts of North Carolina, Jay is better known than my wife and I. He has a great deal of visibility and so do other handicapped children. That would not have been possible if he had continued in the separate, segregated, self-contained classroom in the administration building.

While in school he does a lot of work that demonstrates his helpfulness. Handicapped people have often been thought to be in need of help and that is probably true; they are, but they can be very helpful.

He sets up the lunchroom and after lunch he and his buddies in school dismantle it and clean it up. That is good training for vocational purposes but it is a demonstration of the ability of handicapped children to nonhandicapped children who may think the handicapped don't have any ability.

Also, the school PTA, while reluctant at first to accept that classroom in that building and in that school, now simply think it is indispensable. In a sense, his presence with nonhandicapped children has been helpful to the nonhandicapped and to himself as well.

We have heard testimony this morning about the problems of agency coordination between public and private agencies on the one hand and between various types of public agencies on the other.

One of the benefits of the act, notwithstanding the problems of coordination—and they are substantial—is that Jay now has brought to his program not only the school programs but the recreation department seeing that handicapped kids did do things is providing services.

The private sector is providing the care services and eventually he will move into vocational rehabilitation and vocational rehabilitation services all because he has been the beneficiary of the public-private provisions of the Act.

There has been some discussion also about the IEP's. I think the IEP in Jay's case has been rather remarkable because his parents are somewhat exceptional. We wouldn't be here if we were not. Through the use of IEP we have been able to bring to bear resources that would not otherwise have been available to Jay.

In addition, the IEP has assisted us in making an impact on the governance of the school and just as importantly, on the governance of PTA's and other extracurricula organizations that do affect how handicapped children are educated.



This sum and substance is that all of this being in school, having a free school, not having to go off to an institution, being in a program integrated with nonhandicapped children, being seen, being helpful rather than in need of help, and being the person around whom the school and other agencies of government develop their resources, is directly attributable to Public Law 94-142.

In our testimony I review in a fairly balanced way, I believe, the pros and cons of the law and point out to the Congress some of the major areas in which the law needs to be assisted by the Congress.

I do not believe that the law needs to be changed. Indeed, I would urge that the law not be changed.

I would be delighted to answer any questions that you or other members of the committee have.

Mr. MILLER: Would you just give us a sketch in terms of where you think the law should be assisted or where it is deficient?

Mr. TURNBULL: I think there are two areas that cry out for particular attention. One, of course, is money. Nobody likes to come here and say we need more money but the fact of the matter is that we do. The authorized level has not been the level to which the appropriations have been made.

The second major area is personnel. BEH, through the inservice personnel system, has begun a series of training grants for universities, 85 in number, but I think the effort on the part of the agency with the funds that we hope you will appropriate must be to expand the inservice and preservice training of regular and special education teachers.

It is true that human resources are our biggest challenge but they are also our biggest opportunity. Unless we can train people to handle the handicapped child in a regular program or as a coordinator of services or as a member of a team, in special programs as well, we are not going to see the promise of that act fulfilled in the near future.

There are, as a result of the act, some special efforts on the part of special educators to enable them to do what they need to do but I think we need a lot more emphasis, greater expansion of the programs and a good deal more.

It is at the inservice training level dealing with teachers already in the field where the greatest effort has to be made. They have been there the longest and they are the ones that need the help the most, partly because their attitudes are: I am just being beleaguered by this act. I think we ought to respond to that. I think it is a legitimate concern.

Mr. MILLER: Thank you, Mr. Erdahl.

Mr. ERDAHL: Thank you, Mr. Chairman, and thank you, sir, for your testimony here.

One point you mentioned, Mr. Turnbull; that you have been able to utilize resources not otherwise available through the IEP. Could you specifically tell how you accomplished this and can other people do the same?

Mr. TURNBULL: When we did an IEP for our son as I think most parents try to do, they try to indicate not just his educational needs but special needs: therapy, special adaptive recreation, speech therapy, et cetera.

Some of these are provided by the public school systems themselves. Many are not.

When you can get it into the IEP that the child needs something that he does not have and is related to his education, then it becomes possible for you to use the IEP either to make the school do the job of providing the related services or to refer the child to some agency that will do the related services.

It is a matter of understanding how your local system works but more than that—and this is a key point—parents of handicapped children themselves need as much education in the law and need to be just as effective in using the law as the school systems can be. The school system will not do more than it is required to do.

We, through the related services of IEP, can require the school systems to do a great deal more than they are willing to do.

Mr. ERDAHL. Thank you very much.

Mr. MILLER. Mr. Stack.

Mr. STACK. I really have nothing to say in the way of questions. I do commend Mr. Turnbull on his presentation and for his involvement. I think we are fortunate to have a man of his caliber working in this area.

I am very interested in his comments, particularly with reference to how to put in place a truly effective program, and I will certainly devote my efforts to working in that direction.

Mr. MILLER. You mentioned you had written a number of law review articles on this.

Mr. TURNBULL. Yes, sir.

Mr. MILLER. What is the most recent article that you have written on Public Law 94-142?

Mr. TURNBULL. An article appearing in the fall issue of the Syracuse Law Review. It is an embarrassing question. They are so hard to keep track of; I have done so much. I think one article that gives you a pretty good picture would be in the Phi Delta Kappa of April, 1978.

There is an article coming out next month in the Journal of Education published by Boston University School of Education about the due process problems in the law.

Those are some of the most recent ones that would be useful for the committee to have.

Mr. MILLER. But you are going to be speaking with that specificity as to the various elements rather than an overview as to due process.

Mr. TURNBULL. Yes, sir; and in the course of my testimony I do as well.

If I may add, the early intervention which we have heard about today is particularly crucial for children who are mentally retarded. One of the benefits of Jay's being in the institution for 3 years was that he got some services and some training there that enabled him to be successful when he went into the public school system.

He learned how to walk and he learned how to talk and learned something about toilet training.

If you can get the kid early enough and train him to be successful in school, then the school itself will probably have a better success rate with the child than if you wait until he is 5 years old and bring him in without any prior training.

It is simply a matter of getting your hands on the child as quickly as possible. If it were possible the Congress ought to extend its efforts

in the preschool incentive programs and fund section 619 more fully than it has. I think that is terribly important.

Mr. MILLER. What other impediments are there to getting the child at an early age? I understand it is not mandated yet. I have people in the district which I represent who work with some of these children and we go back to the financial problems and they claim because many of the people who work with the infants are not credentialed teachers, they can not be reimbursed by the school district. Is that factual?

Mr. TURNBULL. There are some problems in which I would call it turfdom. Mental health would like you to pay for what it does for the child, public health, likewise. It is almost a question of Peter stealing from Paul because it is all coming out of a limited public treasury. That is a question I think can be resolved and we can resolve it in North Carolina fairly nicely on a statewide basis.

With respect to Federal agencies, it is far more complicated. In my opinion, it has not been satisfactorily resolved. That, I think, may be an important challenge to this committee in the oversight area.

I would say one other thing, and that is in order to get the child at an early age somebody has to spot that he is handicapped. It is my privilege to work with the American Academy of Pediatrics on a grant provided by the BEH pursuant to this act which will develop a 16-hour curriculum for pediatricians and primary care physicians.

That is a potential audience of 80,000 physicians in the United States. The curriculum will teach them things they had not learned in medical school nor are apt to learn there. One is that there is something more to kids than taking care of adenoids and putting tubes in ears. The curriculum is going to be designed to show what the developmental delays are, what appropriate screening devices are and what appropriate medical intervention is.

Another aspect will teach the physicians how to work with the local school system. How is the school organized? Who is the pressure point at which you have to lean in order to get something done?

Imagine taking that kind of program into other areas, to the American Academy of Family Practitioners, to the American Psychological Associations, getting those professionals educated as well.

You brought up how parents and professionals can't speak to each other. A doctor tells you your child has enuresis when actually all it means is he wets the bed. It is that kind of communications problem that the American Academy of Pediatrics will be addressing.

Finally, when you get the professional involved in the child you build another advocate into the system, a person who can then help you with the Public Health Service, rather than laying it all on the public school system. The schools can't do it all. They can do a lot more than they are doing if other agencies of government can be affected by people who affect them. You have to almost go through starting at the top and come on down to penetrate the system. So there are related services available.

Section 504 of the Rehabilitation Act will help in some respects but compliance with that law is somewhat scanty. I hope that answers your question to some extent.

Mr. MILLER. Mr. Stack.

Mr. STACK. Yes. If I may, I would like to ask you this question. You mentioned the fact that you found the training school helpful. I happen to come from Florida where we have had considerable criti-

cism personnelwise about the problems of schools for retarded children and their effectiveness.

Do you have any suggestions as to how a State or locality may effectively deal with the problem of quality?

In your case you had the knowledge to pick the proper school; the fact that you are skilled in the subject matter in the field contributed perhaps to the effective result you achieved.

What can we do in the case of the average family? Would you care to comment on how we might approach this matter?

Mr. TURNBULL. There are several ways to approach it, sir. One is that the Department of Health, Education, and Welfare has to be willing to enforce its own regulations and its own standards. There are accreditation standards that apply to institutions for a variety of disabled people and, frankly, we have evidence that a review team will not approve an institution but that decision not to approve which has its impact on the funding is later reversed at a higher level.

BEH simply has to be given the ability to do its job.

Another course is through personnel development. Another would be having a wider range of options so that parents do not have to place their children in residential programs. I searched from Maine to South Carolina, I looked at more than 27 up to 30 private and public institutions, and I finally found one that would accept a nonverbal, nonambulatory 3-year-old, and then it cost me \$8,500 a year in 1972 dollars.

Another area of enforcement of the quality has to do with the training of persons who work in those institutions. We spend a lot of time trying to train regular educators to do regular education but not to do special education. Very little time is spent training anybody to take care of institutionalized populations. I would suggest this is where you might put some attention if there is some extra money to be allocated or if the Congress wants to make HEW live up to the regulations that they have promulgated.

Finally, I think the House has to be applauded for passing House bill 10 introduced by Representative Kastenmeier and providing for the Justice Department to have the authority to sue on behalf of institutionalized people whose Federal constitutional rights are violated.

That bill is in some trouble in the Senate, and I would say just to you, if you have a commitment to take care of handicapped people wherever they are, that is an important piece of legislation for you to talk about with our colleagues across the street.

Mr. STACK. You point up the nature of the problem I am addressing. If I understand you correctly, you said you found a school in South Carolina.

Mr. TURNBULL. No, the first one in Rhode Island and then one in Massachusetts. I looked from Maine to South Carolina.

Mr. STACK. This problem is not localized in Florida. It is obviously not one of simple solution. We have a State Department of Rehabilitative Services in Florida that is charged with this responsibility and which, in my opinion, is not discharging it adequately.

One of the things I have gotten from this hearing today is the fact that in the school setting the handicapped child is helped considerably but in the area you are addressing, the very young child, how do we assure that regulation is a fact?

I think that is one of the areas we have to focus our attention upon. I think your testimony helps to confirm my own feeling. You had to spend a great deal of money and, more importantly, a great deal of time, and you had to have the knowledge the average person wouldn't have to find the appropriate institution.

This is again a generalization. I have found in dealing with the handicapped one of the areas of chief concern is the way in which retarded people—not limited to children—are dealt with in our society. It is a matter of grave concern to me. I think you have given us a partial answer in the need for more money and particularly for more trained personnel in special education.

If we could go beyond that and find people who are really caring and who are trained—that would help alleviate the very serious problem, one we cannot solve readily. We can place laws on the book, but this is not a matter that is simplistic. I would certainly encourage you to try to help us to see if we can frame an approach to this that might be more effective than what we are doing now.

Mr. TURNBULL. Thank you.

Mr. MILLER. Thank you, Mr. Turnbull.

Next the committee will hear from Frank Bowe, the director of the American Coalition of Citizens with Disabilities.

[The prepared statement of Frank G. Bowe follows:]

PREPARED STATEMENT OF FRANK BOWE, PH. D., DIRECTOR, AMERICAN COALITION OF CITIZENS WITH DISABILITIES, INC.

Mr. Chairman, Members of the Subcommittee. I am Frank Bowe, Director of the American Coalition of Citizens with Disabilities, Inc. (ACCD) a national umbrella association of almost one hundred organizations of and for disabled people which together represent virtually every category of disability and every major professional discipline involved in service to disabled Americans.

I wish to thank you for offering me this opportunity to provide invited testimony on Public Law 94-142, the Education for All Handicapped Children Act of 1975.

My comments will be brief. I will then be pleased to respond to any questions you may have.

Public Law 94-142 was a landmark piece of legislation; it remains so today. Its provisions address the major problems to equality of opportunity in education for disabled children and youth. The problems we have witnessed with its implementation, and these are important, are functions not so much of the authorizing legislation as of appropriations fulfilling the original intent of the Congress, of administrative management on the different levels of government, and of targeting resources where they are most needed.

This Congress needs to address its oversight to ensuring that these problems are met promptly and appropriately. ACCD strongly recommends that the funding levels originally pledged be adhered to without delay. We urge this Subcommittee to exercise oversight on the issues of interagency cooperation and management which can be resolved through regulative and other administrative measures. And we urge that discretionary funds be made available to address critical issues, notably those of pre-vocational and vocational educational programming for youth aged 16 or 18 to 21, programming for minority disabled individuals particularly those in urban areas, and in research on assessment and evaluation instrumentation.

Several critical issues have surfaced which I want to discuss.

Some have suggested that the dates for full compliance with the law be extended to some future date. ACCD opposes such amending language. The key components of the law derive from case law history dating from the very early 1970's; the original law was drafted with considerable input from state and local education agencies; carefully staggered timetables have been built into the sequence envisioned by the legislation; and the Administration has available to it effective monitoring and negotiating methods and techniques which it is using.



to help education agencies come into compliance with the requirements of the law. Extension of the deadlines will serve no useful purpose other than demonstrating less than full Congressional determination to see long overdue changes made.

Some are questioning the Individualized Educational Program (IEP) requirements of the act. ACCD sees the problems associated with IEP's as primarily administrative in nature rather than legislative; that is, with better-trained personnel and improved planning procedures, the process envisioned in the law will work and work well.

Some profess ignorance or misunderstanding of such terms as "least restrictive" and "most appropriate." Such problems are not legislative, however, and provide no basis for amending the act.

Some doubt the proportions of children estimated to be handicapped under the definition used in the act. This problem is an important one because it directly relates to questions of funding levels and evaluation of compliance on the state and local levels. In preparing the original law, the Congress considered 12 percent of the school-aged population to be handicapped. Is this proportion correct, or nearly so? I think the answer is, "Yes." Let me explain why I take that position despite reported percentage hovering around 7 percent in many school districts.

The discrepancy can in large part be accounted for by several factors, according to ACCD's own research as well as other independent assessments. I refer this Subcommittee particularly to the May, 1979 report of HEW's Office of the Inspector General on this question. ACCD's testimony before this Subcommittee last Spring on issues involved in the appropriations process is also relevant.

First, administrative errors are rampant, with numerous school systems reporting zero percent or very low proportions purely by error. Second, children in special institutions generally are excluded from the count. Third, those served in other federal programs may not be counted although they receive services under this Act. Fourth, many children with disabilities are in regular classrooms and, because they are not identified as in need of special services, are not receiving those they need and are not counted. Perhaps most pernicious is the fifth reason: if services are not available, children may not be counted. We discussed this in detail in our Spring testimony. The Office of the Inspector General report quotes two administrators to this effect:

It doesn't do any good to identify them if we can't do anything about their problem. (High school principal.)

The rate of identification has everything to do with what the evaluator knows the school will be able to do for the child. If the school has a good program for type A students and no way to serve type B students, only the type A will be identified. Identification usually hangs on realism and practicality. (Local special education director.)

There are other reasons. A sixth relates to differences in diagnosis: one district's standards may not be another's, with inevitable differences in numbers of children counted. The relatively low level of Federal funding (9 percent on the average) means that for each child identified significantly higher state and local expenditures are required, with little in the way of a Federal "sweetener." All this conclusion from all of these considerations is simple. If the Congress will appropriate sufficient funding while encouraging solution of the administrative and management problems we have identified, reporting will increase markedly. I may add that the proportion estimated by the Congress in 1975 agrees generally with percentages I have seen around the world in my work on disability: it is by no means an unexpectedly large proportion.

The problems we have seen are problems we can solve, in most cases through appropriation and administrative procedures. The law is new, its major requirements just now taking effect. Give it time—and a chance.

#### STATEMENT OF FRANK ROWE, DIRECTOR, AMERICAN COALITION OF CITIZENS WITH DISABILITIES

Mr. Rowe, Good morning. I am Frank Rowe, director of the American Coalition of Citizens with Disabilities.

Because I have my written statement I will restrict myself to one issue which I don't believe has been discussed adequately this morning. Questions have come up as to the adequacy of the proportion of children estimated to be disabled among the school age population.

When the Congress enacted the law in 1975, it estimated the proportion of children with disabilities in the school age population would be about 12 percent. Is that proportion correct or nearly so? And I think the answer is yes.

I want to explain why I take that position despite the fact a number of reports from different school districts indicate percentages hovering around 7 percent and now it is closer to 9 percent.

The discrepancy between the originally anticipated proportion and those currently being reported can be accounted for by a number of factors according to the work we have done as well as other independent assessments.

In particular, I want to refer the subcommittee to the report of the HEW's Office of the Inspector General issued in May on this very question and the testimony that Mr. Simon received last spring on issues involved in the appropriation related to the education bill.

When we look at the discrepancy, why is it there? There are, I think, seven major reasons.

First, administrative errors are very common, with numerous school systems reporting zero percent or a very low proportion purely by error.

Second, children in special institutions generally are not counted in the child count.

Third, those that are also served by other Federal programs may not be counted, even though they receive services under this act.

Fourth, many children with disabilities are in the regular classroom but because they have not been identified as having a disability they are not receiving the service that they need and they are not counted.

Perhaps most pernicious is the fifth reason. If services are not available, children may not be counted. I discussed this in some detail before Mr. Simon last spring.

The Office of the Inspector General report quotes two administrators to this effect.

A high school principal said, and I quote, "It doesn't do any good to identify them if we can't do a thing about their problem."

A local special education director said, and I quote, "The rate of identification has everything to do with what the evaluator knows the school will be able to do for the child. If the school has a good program for type A students and no way to serve type B students, only the type A will be identified."

A sixth reason relates to differences in diagnosis. One district's standard may not be another's with inevitable differences in the number of children counted. The relatively low level of Federal funding, about 9 percent now on the average, means that for each child identified, significantly higher State and local expenditures are required, with little in the way of a Federal "sweetener".

The conclusion from all of this consideration is very simple. If the Congress will appropriate sufficient funding while encouraging solution of the administrative and management problems we have identified in our written statement, reporting will increase markedly.

I may add that the proportion estimated by the Congress in 1975 agreed generally with the proportion that I have seen around the world in my work on disability. It is not an unexpectedly large proportion.

In particular, in my work with the United Nations for the International Disabled Persons I have reviewed recommendations of documents having to do with disability statistics throughout the world, and if anything, this proportion is quite low, particularly compared with those in developing countries.

The balance of my testimony primarily makes the point that the problems we have identified with Public Law 94-142 are primarily administrative, managerial. They have to do with things like training, better planning. They have to do with things like regulations, clarifying statements. They do not have to do with amendments required in the authorizing language. I can't make that point too strongly.

The 1975 bill was a landmark bill and remains so today. It is an excellent piece of legislation. Its major provisions are just now being implemented. So I would urge this subcommittee to concentrate its oversight on issues such as funding, which is woefully inadequate; other issues such as administration, managerial, components, inter-agency agreements, clarifying agreements and amendments of that sort, with respect to the bureaucratic and administrative implementation of the law.

I respectfully would recommend give it time and a chance.

Thank you. I will be glad to take any questions you may have.

Mr. MILLER. Thank you.

Mr. Erdahl?

Mr. ERDAHL. I want to thank you for your testimony and for being, I think, so very specific in parts of it, and that is also very helpful.

You mentioned the statistic that evidently the 12 percent figure is probably pretty accurate, and then you made the observation, I believe, that children in special institutions are perhaps excluded from the count.

I was wondering what institution you would be talking about there? Where would we be missing some of the children that probably would be included to make a more perfect count?

Mr. Bowz. The 1975 bill used a child count procedure as one of the basis for funding. It recognizes that there would be children who have a need for a more institutional kind of environment and for them a number of the procedures applied and the child count might not be appropriate.

So it had been traditional for people in, for example, certain mental institutions, some special schools for other severely disabled children, not to be routinely included in the count.

I can refer you, of course, to some documentation for that and I will be glad to give that to you if you would like.

Mr. ERDAHL. Maybe we could get that for the record so we would have it. I think that is a significant part that should be included.

Thank you very much. It was good testimony.

Mr. MILLER. Mr. Stack?

Mr. STACK. Beyond thanking Dr. Bowe and commending him for his testimony, I have nothing to add.

Thank you.

Mr. MILLER. Mr. Bowe, is the act as perfect as you say it is? I can understand the concerns of myself and a lot of other people of suggesting amendments to an act and opening it up to the wrath of the House of Representatives, but my concern is, are you being accurate when you tell us that we should only concentrate on interpretations and admin-

istrative rulings and interagency agreements in terms of making the act work?

Mr. Bowz. I am sure you and I are in more agreement than may first appear. I have not said the act is perfect. I have not yet seen any piece of legislation on any level of government that I regard as perfect.

I am saying, however, that there is a question of priority and there is a question of timing. The priorities right now with respect to delivering these kind of educational services that have been denied to the children for so many years is desperate.

It is clearly a denial of services that we had prior to the implementation of this law and which continue today, and are problems that you are going to eliminate or you are going to meet, you are going to overcome, not by making major changes in the authorizing legislation, but in going forward with a strong assistance by the Congress, and it is going to stand up to that law, it is going to have a chance to be carried out.

The question of timing also emerges in that this is a new law and many of its provisions are just becoming a factor. The extension of coverage to children 18 to 21, for example, is remarkably nil.

I think that there is a question of timing as to whether you are going to give this a chance, or we are going to see it work and insist that it work before we go back and make major changes.

Some people have come in and said, well, you should extend the date of compliance, you should change the IEP procedure, you should change the definition of handicapped children, you should change the child count procedure and count disability rather than children, a lot of changes that would first of all throw a great deal of confusion into a local educational situation which right now is just beginning to settle down and beginning to understand and implement the law.

So, it is my firm recommendation, not because the act is perfect but because it is very, very good and because it will work if it is given a chance.

This is not to disagree with you that it is not a perfect bill or that you should concentrate totally and only on administrative or managerial components and insisting clarifying statements be issued and that sort of thing. It is to state that it is my belief that for very practical reasons I would greatly prefer to see this committee concentrate on those priorities at this time.

Mr. MILLER. Thank you.

I don't think we are in disagreement. The list of changes that you have suggested people want in the law are the list of changes that I have heard about even before the law was signed, and so I don't think we are in great disagreement there.

Thank you very much for your time.

Mr. Bowz. Thank you, sir.

**STATEMENT OF BARBARA D. MCGARRY, SPECIALIST IN GOVERNMENTAL RELATIONS, AMERICAN FOUNDATION FOR THE BLIND, INC., AND DR. MERVIN GARRETSON, ON BEHALF OF THE NATIONAL ASSOCIATION OF THE DEAF**

Mr. MILLER. Next, the committee will hear from a panel of two individuals, Barbara McGarry, specialist in governmental relations, the

American Foundation for the Blind, Inc., and Dr. Marvin Garretson, on behalf of the National Association of the Deaf.

Mrs. McGarry, if you would like to go first.

**STATEMENT OF BARBARA D. MCGARRY, SPECIALIST IN GOVERNMENTAL RELATIONS, AMERICAN FOUNDATION FOR THE BLIND**

Mrs. MCGARRY. I am Barbara McGarry, specialist in governmental relations with the American Foundation for the Blind. I would like to request that my statement in its entirety be included in the record of hearings, and I would like to summarize the four main points I have set forth in my statement.

Mr. MILLER. That will be done. Thank you.

[Prepared statement of Barbara D. McGarry follows:]

**STATEMENT OF BARBARA D. MCGARRY, SPECIALIST IN GOVERNMENTAL RELATIONS, AMERICAN FOUNDATION FOR THE BLIND FOR THE SUBCOMMITTEE ON SELECT EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, AT OVERSIGHT HEARINGS ON PUBLIC LAW 94-142—SEPTEMBER 27, 1979**

**SUMMARY**

The American Foundation for the Blind urges the following modifications in Public Law 94-142, based on field reports of difficulty in implementation:

1. Amending languages for the section on preschool incentive grants, to strengthen outreach efforts;
2. Mandating cooperative agreements in the provision of related services to handicapped children;
3. A single, comprehensive written plan for the handicapped child, to meet educational, medical, restorative, and social services;
4. Strengthening provisions for training of professional personnel for special education.

Mr. Chairman and members of the subcommittee, I appreciate your invitation to testify at the subcommittee's oversight hearings on Public Law 94-142, the Education for All Handicapped Children Act.

Since its establishment in 1921, the American Foundation for the Blind, as the national voluntary research and consultant agency in services to blind persons of all ages, has emphasized the importance of including blind and other handicapped persons in the mainstream of our society. Certainly the enactment of Public Law 94-142, together with other landmark legislation banning discrimination against the handicapped, has been a major milestone in our common goal of assuring equal rights and opportunities for handicapped persons.

The oversight hearings of your committee on the implementation of Public Law 94-142 are particularly timely, when current economic pressures require a careful review of the administration programs at all levels of government. At the present time, the number of handicapped children served under Public Law 94-142 is slightly over 3.5 million, with a total of 3.95 million estimated for fiscal 1980, according to a June 7, 1979, report (H. Rept. 96-244). In terms of percentages, a year ago, the Office of Education estimated that approximately 9 percent of the compulsory school-age population is enrolled in special education programs for the handicapped (Federal Register, Sept. 25, 1978). The totals are encouraging, even in the face of original estimates of more than 8 million handicapped children in the United States four years ago. In addition, congressional testimony by witnesses in the education field estimated that 12 percent of the school-age population suffers from handicaps severe enough to qualify for special education.

Our concern, then, is two-fold: First, locating and serving those children not yet reached; and second, better serving those already within the system.

Viewing Head Start as a logical resource for locating and serving handicapped preschoolers, with Head Start's mandate of serving no less than 10 percent handicapped in its total enrollments, in June 1978 the Bureau of Education for the Handicapped and the Administration for Children, Youth, and Families joined in an inter-agency agreement emphasizing the importance of Head Start's "Resource Access Projects" in reporting handicapped children to local educational authori-



ties. Unfortunately, the fiscal 1980 budget failed to request any funding for the new preschool outreach program as authorized under the Education Amendments of 1978 (Public Law 95-561).

To stimulate outreach efforts to locate handicapped children of preschool age—at a time when their handicapping conditions may be most effectively ameliorated—we respectfully urge that the word "maximum" be deleted from Sec. 619(a) (3) of the Education of the Handicapped Act, as amended by Public Law 94-142, which establishes the preschool incentive grant program, so that the reference paragraph reads,

The amount of the grant for each fiscal year which a State may receive under this section shall be \$300 for each such child in that State.

For those handicapped children already included under Public Law 94-142, the problems conveyed to our organization most frequently are the following:

1. State and local responsibility for related services;
2. Duplication of individual program planning;
3. Insufficient numbers of qualified special education teachers for children with low prevalence handicaps.

As members of the subcommittee are well aware, Public Law 94-142 links special education with related services for the handicapped child by defining "related services" as follows:

... The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

On June 22, 1978, the Bureau of Education for the Handicapped and Medicaid's EPSDT program signed an interagency agreement, in which Medicaid's EPSDT program, accepted "first dollar" responsibility for health services to all income-eligible handicapped children, in the following words:

States making use of all the existing programmatic resources from other Federal programs are better able to insure a free appropriate public education to all handicapped children. One of the Federal programs which contributes a significant number of services is the EPSDT component of Medicaid. Income-eligible children can receive screening, evaluation, and related services such as physical therapy, prostheses, and other ongoing medical treatment. The EPSDT program accepts "first dollar" responsibility for these various health services to handicapped children.

The track record for delivery of needed services by EPSDT to medically-indigent ("income-eligible") children has been documented by a 1978 Brookings Institution study, which confirms that less than one-sixth of the 13 million Medicaid-eligible children under age 21 have been served. Since under Public Law 94-142, income is not a factor in providing services, handicapped children of families above the poverty level can be served under the Crippled Children's Services—also not an income-related program. According to the Office of Maternal and Child Health, the total number of children served in fiscal 1979 by the Crippled Children's Services was 649,000; the total anticipated for fiscal 1980 is 668,000. With the guarantee of appropriate educational and related services for all handicapped children regardless of family income, states which have limited these services to indigent families are now looking to a variety of sources for additional funding.

Without any specific language in Public Law 94-142 or its regulations, to mandate interagency agreements on the provision of related services—even for children of low-income families—a working prototype of interagency agreements may be found in a relatively small new program serving blind and disabled children in the Supplemental Security Income section of the Social Security Act. As you know, the SSI program provides supplemental cash benefits to aged, blind, and disabled persons who are impoverished. In addition, the SSI Disabled Children's Program was enacted in 1976 to guarantee that blind and disabled children in SSI would also receive needed medical, rehabilitative, and social services. In effect, it is a "last-dollar" program, since it is authorized to pay the cost of such services only after other resources have been tapped.

To implement the SSI-Disabled Children's Program, very specific working agreements are mandated by regulation, for all Federal programs concerned with handicapped children, in order to develop a comprehensive Individual Service Plan (ISP) for the disabled child. In sharp contrast to the regulations implementing Public Law 94-142, which stressed minimum rules until after State and local education agencies have had some experience with the new law, the regula-

tions implementing the SSI-Disabled Children's Program give specific guidance to the States, as follows:

The State Plan shall assure that cooperative agreements are made with each Federal, State, or local public agency which provides services to disabled children.

To avoid any uncertainty as to what other Federal programs are to be included in development of the Individualized Service Plan, the SSI-Disabled Children's Program regulations further specify that:

To the extent appropriate, as determined by the State agency, service plans which have been developed for the child in connection with other Federal programs, shall be included in the service plan developed under this paragraph. These other Federal programs include:

(i) Services developed for crippled children under Title V of the [Social Security] Act;

(ii) Individualized education programs developed for the handicapped child under Part B of the Education of the Handicapped Act;

(iii) Habilitation plans for developmentally disabled children developed under the Developmental Disabilities Services and Facilities Construction Act;

(iv) Individual written rehabilitation programs developed for handicapped individuals under the Rehabilitation Act of 1973;

(v) Other individual service plans developed under the Medicaid program, Title XIX of the [Social Security] Act, Title XX of the Act, and the Community Mental Health Centers Act; and

(vi) Services being provided to handicapped preschoolers in Head Start programs under Public Law 93-641, the Head Start, Economic Opportunity, and Community Partnership Act of 1974.

To many advocates for handicapped children, the coordination mandated by the SSI-Disabled Children's Program regulations offers a commonsense example of trying to avoid duplication of services, or waste of professional time. Of equal importance is the intention to treat the disabled child as a whole person, with needs that are obviously interrelated.

To be a handicapped child from an impoverished American family means to be in danger of drowning in a sea of alphabet soup: IEP, ISE, EPSDT, MCH-CC, D.D., and other programs, all well intentioned but uncoordinated with each other except for the single example of the SSI-Disabled Children's Program. At present, the non-system is extremely wasteful in terms of professional time, transportation, and costs of services. The preschool handicapped child is often subjected to as many as 12 screening procedures in a single year, without follow-up treatment, according to a recent HEW-sponsored survey. If the child also comes from a family whose main language is not English, the difficulties are further exacerbated. From the family's standpoint, the shuttling of their child between agencies for fragmented services constitutes not only a study in frustration, but discriminatory practice.

At this juncture in the implementation difficulties of Public Law 94-142, we respectfully urge that this act be amended to mandate coordination with other Federal agencies serving handicapped children; and further, that one single comprehensive service plan be required for each such child, in effect constituting an interagency agreement around the child. At whatever point of entry when the child begins receiving needed services, the service plan should become available, to follow the child through subsequent services provided. The benefit to the child and his family is immediately apparent. The conservation of tax-supported services can be enhanced through this mechanism, by means of emphasizing the following:

1. *Shared dollar agreements*, to allow for varying services at the State and local level, preserving flexibility in terms of bureaucratic turf.

2. *Shared personnel agreements*. An example is agreement on screening procedures, where the public health nurse, the early childhood educator and the pediatrician join at the "intake" stage.

3. *Personnel dollar agreements*. To implement the individualized plan after intake, one example is the purchase of "related services" such as braille teaching by the school system, together with orientation and mobility training, or low vision services by EPSDT, for a visually handicapped child.

4. *Shared facility agreements*. The school, local clinic, outpatient hospital facility are examples.

5. *Equipment sharing*. In the case of specialized medical facilities, local health services agencies under Public Law 93-641 should be involved.

6. *Sharing of materials.* An example in the low-prevalence handicap category is lending braille materials, tapes, optacons, or reading machines for blind children.

Recent economies at the State and local level, stimulated by California's example of proposition 13, in the past two years have made even more urgent the necessity of sharing available personnel, dollars, equipment and facilities wherever possible. Within the context of the needs of handicapped children, a single written comprehensive plan for the child is essential as the activating mechanism for this cooperative effort. The amending of Public Law 94-142 to mandate cooperative agreements, and the single service plan, is especially timely in view of budget constraints and the national economy.

The final item for which we request the committee's consideration is the current insufficiency of special education personnel for adequate implementation of Public Law 94-142. In the May 1977 House report on legislation to extend parts the following observation on special education personnel (part D):

The committee anticipates that as States intensify their efforts to meet the mandate in Public Law 94-142, there will be a great necessity for additional special education personnel trained to meet the needs of severely and profoundly retarded children, children with low prevalence handicapping conditions such as the blind and visually handicapped, the deaf and hearing impaired, the deaf-blind, and children with severe and multiple impairments. During its hearings, the subcommittee heard testimony which indicated present and future shortages in these areas.

In this report, authorizations included \$85 million in fiscal 1980 for part D, increased to \$90 million for fiscal 1981, and \$95 million for fiscal 1982. Unfortunately, the conference-approved bill for special education personnel in the fiscal 1980 HEW appropriations bill is \$55.3 million, identical to the budget request, and \$2.3 million less than appropriated in fiscal 1979. We would greatly appreciate your committee's reemphasis of the crucial importance of adequate numbers of trained special education personnel, for proper implementation of Public Law 94-142.

Thank you for consideration. I will be pleased to answer any questions the committee may have.

REFERENCES

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H. Rept. 95-288, May 6, 1977, for H.R. 6692, to extend parts C, D, E, and F of the Education of the Handicapped Act (Public Law 95-49).

H. Rept. 96-400, conference report on H.R. 4389, Fiscal 1980 appropriations for Labor-HEW, Aug. 2, 1979.

Mrs. McGARRY. Our first request for the committee's consideration concerns the item of preschool incentive grants. As members of this committee are extremely well aware, there is up to a maximum of \$300 entitlement per handicapped child, age 3 to 5. As of last May, the Bureau of Education of the Handicapped reported a total child count of something like 220,000 children that qualified for these grants, but

somewhere in the appropriations process that word maximum got implemented, and the result was rather than \$300 per child, the child got something like \$90. I think that members of this committee could agree that that is not very much incentive for preschool incentive grants, and by the mere removal of the second word in the reference paragraph I have alluded to, I think removal of the word maximum would be highly effective in increasing the States' attention to finding these preschool children, which we feel is especially important from the standpoint of your blind and visually-handicapped preschooler.

Two examples come to mind immediately with regard to visually-handicapped children at that age. Before the age of 5, there are two conditions that can be successfully treated for the visually handicapped child, strabismus and amblyopia, more commonly known as tangle-eye—or cross-eye—and lazy eye. If, for instance, the amblyopia is left beyond the age of 5, it becomes a lifelong handicap for the child. It is easily treated up to the age of 5 and remedied permanently.

The second point I would like to address is the issue of mandating cooperative agreements and the provision for related services to handicapped children with perhaps a little bit different viewpoint than the previous witnesses in trying to effectuate a more cost-effective system of delivering services. I won't go into the definition of related services at the outset, but I listened with considerable interest to this morning's witnesses as well as many people who have come into our own national headquarters and our Washington office as well, relating difficulty in State and local interpretations of related services and the absolute bottom-line question about who pays.

On June 22, 1978, the Bureau of Education for the Handicapped and Medicaid's Office of Child Health signed an interagency agreement, in which Medicaid's EPSDT program accepted "first dollar" responsibility for health services to all income-eligible handicapped children, in the following words:

States making use of all the existing programmatic resources from other Federal programs are better able to insure a free appropriate public education to all handicapped children. One of the Federal programs which contributes a significant number of services is the EPSDT component of Medicaid. Income-eligible children can receive screening, evaluation, and related services such as physical therapy, prostheses, and other ongoing medical treatment. The EPSDT program accepts "first dollar" responsibility for these various health services to handicapped children.

It is extremely interesting prose, but it doesn't do a bit of good for the parents of handicapped children who are above the poverty level.

Another source of possible funding, which like Public Law 94-142 is not income-related, is title V, Maternal and Child Health Crippled Children Services. Yesterday, in ascertaining current totals of those served, I found that the estimate for fiscal 1980 will be \$668,000, and, last year, the total was \$649,000. Now, it seems evident—

Mr. MILLER. Excuse me, served under?

Mrs. McGARRY. Crippled children, title V, not an income-related program, of course.

With the guarantee of appropriate educational and related services for all handicapped children regardless of their family's income, States which up to now have limited these services to indigent families, are forced to look for a variety of sources for additional funding.

Without any specific language in Public Law 94-142 or its regula-



tions to mandate, not to hope, but to mandate interagency agreements on the provision of related services, even for children of low-income families, a working prototype of interagency agreements may be found in a relatively small new program serving blind and disabled children in the supplemental security income section of the Social Security Act. As you know—and my apologies for laboring this point before a committee other than the committee of jurisdiction, but I think it provides an accurate analog, as you know—the supplemental security income program provides supplemental cash benefits to aged, blind, and disabled persons who are impoverished. In addition, the SSI disabled children's program was enacted in 1976 at the behest of one of your former members who has now been approved from a Federal judgeship, to guarantee that blind and disabled children in SSI would also receive needed medical, rehabilitative, and social services. In effect, it is a "last-dollar" program, since it is authorized to pay the cost of such services only after other resources have been tapped.

To implement the SSI-disabled children's program, very specific working agreements are mandated by regulation, for all Federal programs concerned with handicapped children, including Public Law 94-142, in order to develop a comprehensive individual service plan—ISP—for the disabled child. In sharp contrast to the regulations implementing Public Law 94-142, which stressed minimum rules until after State and local education agencies have had some experience with the new law, the regulations implementing the SSI-disabled children's program give specific guidance to the States, as follows, and I do think it is worth quoting:

The State plan shall assure that cooperative agreements are made with each Federal, State, or local public agency which provides services to disabled children—

and you can substitute the word handicapped for disabled.

To avoid any uncertainty as to what other Federal programs are to be included in development of the individualized service plan, the SSI-disabled children's program regulations further specify that:

To the extent appropriate, as determined by the State agency, service plans which have been developed for the child in connection with other Federal programs shall be included in the service plan developed under this paragraph. These other Federal programs include:

Services developed for crippled children under Title V of the Social Security Act;

Individualized education programs developed for the handicapped child under part B of the Education of the Handicapped Act.

Rehabilitation plans for developmentally disabled children, developed under the Developmental Disabilities Services and Facilities Construction Act—remember these are all individual plans for the poor unfortunate child;

Individual written rehabilitation programs developed for handicapped individuals under the Rehabilitation Act of 1973.

Other individual service plans developed under the Medicaid program, title XIX of the Social Security Act, title XX of the act, and the Community Mental Health Centers Act; and

Services being provided to handicapped preschoolers in Head Start programs under Public Law 93-644, the Head Start, Economic Opportunity, and Community Partnership Act of 1974.

To many advocates for handicapped children, the coordination mandated by the SSI-disabled children's program regulations offers a commonsense example of trying to avoid duplication of services, or waste of professional time. Of equal importance is the intention to



treat the disabled child as a whole person, with needs that are obviously interrelated.

To be a handicapped child from an impoverished American family means to be in danger of drowning in a sea of alphabet soup: IEP, ISP, EPSDT, MCH-CC, D.D., and other programs, all well-intentioned but uncoordinated with each other except for the single example of the SSI-disabled children's program. At present, the nonsystem is extremely wasteful in terms of professional time, transportation, and cost of services. The preschool handicapped child is often subjected to as many as 12 screening procedures in a single year, without follow-up treatment, according to a recent HEW-sponsored survey. If the child also comes from a family whose main language is not English, is Spanish, or other, the difficulties are further exacerbated. From the family's standpoint, the shuttling of their child between agencies for fragmented services constitutes not only a study in frustration, but discriminatory practice, such as may, in turn, trigger section 504.

At this juncture in the implementation difficulties of Public Law 94-142, we respectfully urge that this act be amended to mandate coordination with other Federal agencies serving handicapped children; and, further, that one single, comprehensive service plan be required for each such child, in effect constituting an interagency agreement around the child. At whatever point of entry, whether 3 to 5 or below the age of 3, whenever the child begins receiving needed services, the service plan should become available to follow the child through subsequent services provided. The benefit to the child and his family is immediately apparent.

The conservation of tax-supported services can be enhanced through this mechanism, by means of emphasizing the following. I won't go into the specific examples, but to mention shared dollar agreements, shared personnel, and shared equipment, shared materials, and shared facilities.

Recent economies at the State and local level, stimulated by California's example of proposition 13, in the past 2 years have made even more urgent the necessity of sharing available personnel, dollars, equipment, and facilities wherever possible. Within the context of the needs of handicapped children, a single written comprehensive plan for the child is essential as the activating mechanism for this cooperative effort. The amending of Public Law 94-142 to mandate cooperative agreements, and the single service plan, is especially timely in view of budget constraints and the national economy.

One example of the difficulty facing us now is the difficulty of getting the hospital cost containment plan enacted.

The final item for which we request the committee's consideration is the current insufficiency of special education personnel for adequate implementation of Public Law 94-142. In the May 1977 House report on legislation to extend parts C, D, E, and F of the Education for the Handicapped Act, the committee made the following observation on special education personnel—part D:

The committee anticipates that as States intensify their efforts to meet the mandate in Public Law 94-142, there will be a great necessity for additional special education personnel trained to meet the needs of severely and profoundly retarded children, children with low prevalence handicapping conditions such as the blind and visually handicapped, the deaf and hearing impaired, the deaf-blind, and children with severe and multiple impairments. During its hearings,

the subcommittee hear testimony which indicated present and future shortages in these areas.

In this report, authorizations included \$85 million in fiscal 1980 for part D, increased to \$90 million for fiscal 1981, and \$95 million for fiscal 1982. Unfortunately, the conference-approved total for special education personnel in the fiscal 1980 HEW appropriations bill is \$55.3 million, identical to the budget request, and \$2.3 million less than appropriated in fiscal 1979. We would greatly appreciate your committee's reemphasis of the crucial importance of adequate numbers of trained special education personnel for proper implementation of Public Law 94-142.

Thank you for your consideration. I will be pleased to answer any questions the committee may have.

Mr. MILLER. Thank you, Mr. Erdahl.

Mr. ERDAHL. Thank you, Mr. Chairman, and thank you for your good testimony. We have had some outstanding testimony today.

As I listened, I think several things came out loud and clear. One is the need for funding which is not new but it is an important consideration.

The other was that we treat an individual as a person. You put it well. To put it my way, that we deal with each individuality as a human being who happens to have some handicap and try to deal with the total person. I think that is something we sometimes miss.

We have this fragmented approach to the situation of an individual from myriad different Federal, State, and local agencies. One of the things that I think that you properly stress is the need to coordinate these various things to center in on this one unique individual human being.

How do we best do that?

Mrs. MCGARRY. That is a challenge for all of us to come up with a solution. I offer the one concrete example I know that does work.

It is somewhat innovative and it has taken almost 2 years to get that plan down into working order, but it is being done in the States and it is being done successfully.

I think that could provide a working prototype, if you please. As to which agency should be the lead agency, I have observed in some 15 to 18 years of concern for Federal legislation affecting handicapped children that it usually comes down to budgetary considerations. Whichever program is most generously funded usually is the one called on to coordinate.

Mr. ERDAHL. I also assume in addition to delivering the services these people need this type of coordinated effort would be cost effective.

Mrs. MCGARRY. It has proven to be cost effective. It has proven to limit duplication of services. For some 5,600 blind and 170,000 blind already immediately handicapped in your SSI program.

Mr. MILLER. If the Chair can interrupt, I would like to go ahead to try to give Dr. Garretson some time. I think we have about 5 to 7 minutes because our problem will be that we will get into a series of votes—hopefully, we won't, but very likely we will on the budget—so if you would like to go ahead, Doctor, and give us the highlights of your testimony, the full statement will be put in the record.

Otherwise, I am afraid we won't get back here until after 2 o'clock this afternoon.

**STATEMENT OF DR. MERVIN D. GARRETSON, SPECIAL ASSISTANT TO THE PRESIDENT, ON BEHALF OF THE NATIONAL ASSOCIATION OF THE DEAF, AS READ BY LOVELLE GOLDEN, COORDINATOR OF COMMUNITY PROGRAMS AND SERVICES, GALLAUDET COLLEGE**

Dr. GARRETSON. Thank you, Mr. Chairman. In view of my handicap I am asking Mr. Golden to read my paper for me, with your permission.

Mr. MILLER. Yes. I just want to tell you what our time constraints are. We will have second bells very quickly. Thank you.

Mr. GOLDEN [reading]:

My name is Mervin D. Garretson. I am appearing before you today on behalf of the National Association of the Deaf as immediate past president and a member of the executive board of this organization.

We are grateful for this opportunity to share with you our thinking and very real concerns relative to Public Law 94-142, the Education for All Handicapped Children Act of 1975.

During the 1960's and early 1970's, an enlightened Congress enacted a series of significant legislative measures which recognized the unique educational needs of deaf children and adults in our country.

This legislation created the National Technical Institute of the Deaf at Rochester Institute of Technology in upstate New York, the Model Secondary School for the Deaf, and the Kendall Demonstration Elementary School, the latter two as national resource centers for testing, research, and development of innovative curricular and teaching approaches in educating deaf children.

Both of these pilot schools are located on the campus of Gallaudet College, another specialized institution serving the deaf population which Congress has long supported.

In addition, the Elementary and Secondary Education Act incorporates provisions for postsecondary educational programming for deaf people at California State University, Northridge, the St. Paul Technical-Vocational Institute in Minnesota, Seattle Community College in Washington State, and Delgado College in New Orleans, La.

All of these legislative mandates have reflected the understanding and sensitivity of Congress to the peculiar communication handicap of deaf people and the need for special programming if they are, indeed, to become involved participants in the educative process.

In effect, this legislation has made it possible for deaf children, youth, and adults to have equal access to a wholesome communicating educational milieu, free from confused guesswork, and similar to that of the non-handicapped student.

All through these years Congress has not found it necessary to enact identical legislation providing special schools for other handicapped groups because with their hearing intact they have been able to participate in the mainstream of education with minor and sometimes not so minor adjustments. Such auditory interaction has not been possible for children with hearing losses as Congress in its wisdom has recognized.

Public Law 94-142 emerged basically from the deplorable situation of institutionalized, mentally retarded children and the lack of or the high cost to the parents of a satisfactory educational program. Against this contextual background and in relation to many other handicapped children, the law has had a positive impact on special education in general.

The National Association of the Deaf concurs with other disabled groups in their perception of Public Law 94-142 as well intentioned and essentially sound legislation, even for certain types of hearing impaired children.

However, the NAD believes this law lacks an element of continuity or consistency with the above previous legislation which specifically acknowledges the tremendous communication handicap imposed on deaf children and accordingly has provided for programs appropriate to their needs.

As generally interpreted today, the thrust of this law has been away from special schools and toward indiscriminate and ill-conceived placement in just any

regular public school. As a consequence, deaf children and their parents have had to contend with serious problems in many of our States which appear to insist on an extremely narrow and shortsighted interpretation of this law.

State legislation and guidelines take their lead from Congress but we have little evidence that States share congressional understanding of the crucial need of all deaf children for a full visual educational environment. Nor have they, with the advent of Public Law 94-142, grasped the implications of full support services required in the law or the role of special schools in their search for "the most appropriate placement."

On the contrary, continuing attempts are being made to phase out or to effect immediate closure of some very fine residential and public day schools for deaf children. The NAD believes that removal of such programs may be at variance with the requirement that the handicapped child have access to a continuum of placement options and if such be the case, that Federal funds should be withheld from States not in compliance with this section of the law.

Mr. Chairman, may we call to your attention a little noted and apparently incongruous phrase which appears in the law itself under "Evaluation," 20 USC 1418, Section 618(d)(2):

An analysis and evaluation of the effectiveness of procedures undertaken by each State education agency, local education agency, and intermediate educational unit to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children in day and residential facilities.

This being the only instance where the phrase "least restrictive environment" appears in the entire law, it would appear that Congress inserted the latter part of this section for a specific purpose, to reaffirm the legislative history and commitment to the above-mentioned national special programs for deaf persons and to cover other clearly essential needs among the larger group of handicapped children and adults.

In developing the regulations for Public Law 94-142, the significance of this statement may have been overlooked or glossed over because of its obscure position in the law.

Regulations paragraph 121a.302 and the entire section under the heading, "Least Restrictive Environment," (121a.330 et seq) merely reemphasize the concept of mainstreaming to the maximum extent possible rather than the more meaningful context of an education commensurate with the unique needs of each child.

From this standpoint it is the position of the NAD that there may have been an element of circumvention of congressional intent, or that insufficient emphasis has been placed in the regulations on this positive clause in the law.

Therefore, we respectfully recommend a minor amendment or extension of section 618(d)(2) or should amendments be premature at this time, at least the immediate issuance of a new and clarifying regulation from the Bureau for Education of the Handicapped.

In essence such a directive could emphasize the severe communication handicap created by hearing loss and require that each State reinforce its annual evaluation program with the stipulation that State residential and public day schools become involved in cooperating roles with the State education agency.

Such a team approach to statewide evaluation would ensure that deaf children are receiving an equal education and that placements are made specific to deafness and not formulated along broad categorical lines based on some continuum which states that the regular public school is the target for all handicapped children.

The rationale for inclusion of special schools for the deaf in an evaluation team effort with the State education agency is twofold, economic and educational.

From the standpoint of economics, such an evaluation would be less costly as residential schools already exist and receive regular appropriations from State legislatures. Similarly, large public day schools for deaf children are funded by the local education agency.

Thus, the evaluation job would not necessitate huge separate outlays of funds for special education departments to expend on evaluation program planning and development, including contracting outside consultants.

From the standpoint of educational savvy and experience, most State residential and public day schools for the deaf have a solid base of expertise in programs

geared to deafness, which include exemplary after-school activities as well as academics.

Generally they are able to offer knowledgeable teachers and support staff to the evaluation effort, trained and certified teachers, audiologists, psychologists, speech pathologists and diagnostic specialists. Each State has such a nucleus for an expanded evaluation center, which would cooperate with both the local and State education agencies.

By enacting such an amendment or clarifying statement in the regulations Congress would be reiterating its understanding and commitment to the vastly different and complex situation of children who do not hear, and who even today are being dumped willy-nilly into a communication void with little or no recourse for either child or parent.

In the final analysis it is, of course, the IEP, the Individualized Education Plan, which should determine placement, and which—to have any real meaning should be developed in concert with experienced and knowledgeable people.

The NAD realizes that with insufficient funding it has been difficult for the Bureau for Education of the Handicapped to provide adequate monitoring and clear interpretations of these aspects of the program. Again practically no attempt has been made to monitor section 606 (20 U.S.C. 1405) which requires that positive efforts be made to employ and advance in employment qualified handicapped individuals in programs assisted by this act.

A recent check of over 50 public schools with mainstreamed children in the South, Midwest and Far West failed to surface a single handicapped teacher or resource person, so these children were receiving educational services without the benefit of adult role models.

In the interest of conserving time, and with your permission, I would like to attach to this testimony a paper, "The Deaf Child and the Unwritten Curriculum," prepared at the request of parents of deaf children in Michigan, and which I believe graphically describes the plight of hearing-impaired children in the overall educational environment.

In closing, may I repeat that the NAD views Public Law 94-142 as a significant piece of legislation with great potential for handicapped children, given the necessary funding and time to continue the implementation process.

However, we remain concerned that this time element does not work to the detriment of deaf children who are right now lost in a maze of misinterpretation, misconception and misplacement.

Thank you for your attention.

Mr. MILLER. Thank you, Dr. Garretson. I am sorry that we don't have time for questions. Mr. Erdahl and I will have to leave. If we don't get this part of the budget passed, this will all be moot. There won't be any money for these programs.

Thank you very much and I thank the other witnesses. I am sorry that we have to conclude in this fashion.

[Whereupon, at 12:25 p.m., the subcommittee was adjourned.]



# OVERSIGHT OF PUBLIC LAW 94-142—THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

## Part I

TUESDAY, OCTOBER 9, 1979

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SELECT EDUCATION,  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 9:38 a.m. in room 2261, Rayburn House Office Building, Hon. Paul Simon (chairman of the subcommittee) presiding.

Members present: Representatives Simon and Erdahl.

Staff present: Judith Wagner, staff director; Thomas L. Birch, counsel; Sylvia Corbin, executive secretary; Martin LaVoor, senior minority legislative associate; and Terri Sneider, legislative associate.

Mr. SIMON. We will commence our meeting. This is another in a series of oversight hearings on 94-142, a measure that marked a significant step forward in the education of handicapped children. We are interested in knowing how the law is working; and, if improvements are needed, what we should do in that direction.

Our first set of witnesses will be a panel composed of Deborah Olson, a special education teacher from Laconia, N.H.; Marilyn Crawford, with Garfield Elementary School in Fairfax County, Va.; Walter Tice, with the Yonkers Federation of Teachers, and vice president of the American Federation of Teachers; and Donald Cameron, assistant director of the National Education Association.

Deborah Olson, we will hear from you first.

For all of our witnesses, we will be happy to enter your statements in the record if you wish to summarize them. Please proceed as you wish. We will hear from all four witnesses and then have questions.

[Prepared statement of Deborah Olson follows:]

PREPARED STATEMENT OF DEBORAH OLSON, SPECIAL EDUCATION TEACHER,  
LACONIA, N.H.

Name: Deborah Olson.

School system: Laconia, New Hampshire.

Experience: 10 years in special education—deaf, emotionally disturbed, learning disabled, mental retardation. Also parent of a 14 year old handicapped child.

Education background: B.S. in Speech & Hearing, Boston University; M. Ed. in Special Education, Boston University.

In the mid '60's, I was very active in the State of Massachusetts passing a law mandating the education of all handicapped children ages 3-21. This was the precursor to the present law PL 94-142. Therefore, the effects of this law on the education of the handicapped is of particular interest to me.

## EFFECTS OF PUBLIC LAW 94-142

*A. On teachers*

1. The Special Education teacher now functions as a contributing member of a placement team having an impact on all children placed in the special classroom. Prior to this team approach, the teacher was in many cases the passive recipient of a child with an ill defined problem. The special education classroom was the proverbial "school dump."

2. This participation on the placement team (in conjunction with a potential special education teacher-parent alliance) gives the teacher more power to pursue needed services for the children in the class (speech therapy, occupational therapy, physical therapy).

3. The special education teacher has a great deal more contact with parents under the new law. Parents must be informed of their rights and the rights of their child as well as participating in the formation of the Individualized Educational Plan (IEP) for their child. The planning process necessitates at least 2 meetings annually with the teacher. In the past, parents and teachers often never met. In the long run this increased contact makes school less threatening to the parents with the effect of increasing their participation in the classroom and overall educational process. In many cases, the parents and teachers are able to work together to insist on appropriate services being provided.

4. A major change for the special education teacher has been the shift of focus away from the self contained special education room to the resource room concept. This shift is long over-due and absolutely essential if the individual with special needs is ever to be integrated into the "normal" world. The resource room concept has had extremely beneficial results for all concerned. However, it places an additional burden on the special education teacher who must schedule each child, adapt regular classroom programs to meet individual needs, train regular classroom teachers and deal with adjustment differences on all sides, among other things. Specific training in mainstreaming techniques is needed for both the special education teacher and the regular classroom teacher.

5. The special education teacher is now required to write Individualized Educational Plans. The benefits to parent, teacher and child are immeasurable. No longer are children stuck in a classroom until they are 16 with no specific program—they must be assessed and monitored by the teacher. Strengths and weaknesses are identified and a program drawn up accordingly for each child. The parent has input into the plan as well as other specialists besides the teacher. These I.E.P.'s insure an appropriate education for each child with the teacher and school district held accountable. The teacher uses these I.E.P.'s as the basis for her daily educational plans for the classroom. However, the process of writing the I.E.P.'s is difficult and time consuming. It falls squarely on the shoulders of the already over-burdened special education teacher. Presumably, as special education teachers and other involved professionals become more accustomed to writing the I.E.P.'s it will be less difficult. It is hoped that school systems will see their way to giving released time to the teachers to write the I.E.P.'s.

*B. On the special needs child*

1. The requirements of Public Law 94-142 for an I.E.P. by its nature causes the teacher and parent to focus on an Individualized Education for the child. This leads to more realistic expectations for both parties and a vastly improved education for the child.

2. The emphasis on least restrictive alternative has led school districts to re-examine their policy of shuffling handicapped children away from their home schools into isolated homogeneous settings. The benefits for the handicapped child are many—(contact with "normal children," friends in the neighborhood, improved self image) and broadens the education of all children (e.g. dealing with differences between people).

3. Prior to any placement each child is much more carefully examined than in the past. More tests are given by more highly trained people; and specific strengths and weaknesses are identified. An I.E.P. is written specific to each child's needs, allowing for the appropriate education of each child.

4. The child benefits from the forced increased parent involvement, i.e. placement meetings, paper signing. It guarantees an absolute minimum of two parent-teacher meetings a year. Prior to Public Law 94-142 parents and schools often had little or no association.

5. The combination of testing, parental involvement and the placement team process has led to the identification of additional needs of some children. These

needs, include counseling, speech, occupational therapy, physical therapy and aides. Prior to the enactment of Public Law 94-142, special needs children were often not able to receive these services when appropriate to their total educational program.

**STATEMENT OF DEBORAH OLSON, SPECIAL EDUCATION TEACHER,  
LACONIA, N.H.**

Ms. OLSON. Thank you for allowing me to appear before your committee.

I am a special education teacher in New Hampshire; I worked for 10 years in special education, in three different States. I have worked with the emotionally disturbed, the deaf, the mentally retarded, and learning disabled. So I have a varied background. I have seen dramatically the effects of Public Law 94-142 on my role as a teacher.

I am also the parent of a deaf child. So I have seen the effect also as a parent.

I feel very, very positively about the law. I think it has been difficult to institute it, but that on the whole it has worked out very, very well, at least in my own personal situation.

There have been several effects of the law on teachers. One of them has been that the special education teacher now functions as a contributing member of a placement team. This means he or she has impact on all children in a special classroom. Before this, I would have children just dumped into my classroom; I made no contribution as to whether they were being appropriately placed or belonged in my classroom or not. As a result, I ended up with many emotionally disturbed children. I had children in my class working in the alphabet and children working on the fourth grade level. It did not work out well.

This year I have a group of children grouped according to their ability and I am able to function much better and give an appropriate education to these children. I feel this is a very, very important contribution that the public law has made on the teachers that they do have a say in who is placed in their classroom.

Because the teacher participates on this placement team, this has given the teacher a great deal more power, at least in my situation. I am now able to really pursue the needed services for children in the classroom. It was very frustrating in the past to have children who you knew needed therapy and you were not able to get it for them. In my school system, the placement team meets; we decide what the child needs, that is written into the IEP, and it is provided.

Under the Public Law 94-142, the special education teacher also has a great deal more contact with parents under this law. The parents have to be informed of their rights and the rights of their children, and they also participate in the formation of the individualized educational plan.

Again in my school system I have to meet with the parents two or three times before we sit down and write up the educational plan. What happens is I go and I say to the parents, "Your child needs this, this, this, this, and the school system is going to fight it because it is going to cost money, but this is what your child needs. When we go into the meeting to write the IEP, please insist your child gets these services." As a result, the parents and teacher form an alliance and are able to push through a lot of needed services.

Sometimes I would go for 2 or 3 years with a child and never meet the parents. In Laconia, we have a number of children who are children of graduates of the Laconia State School and they are very, very skeptical about the public school system. Because they are forced to meet with me to write this educational plan, they find out I am not a terrible monster or something of that sort. We tend to get along very well and can provide better services for their children.

The IEP, I have found, has been extremely useful. It is very, very time-consuming to write. I have managed to work out with my school system that they do give us released time, the teachers, to write the IEP. I spend at least 5 hours per plan writing each plan that I write, plus meetings, contact with parents. This is difficult; the time involved is very, very difficult to find. But, I do base my entire educational plan for the year on those individualized plans and I am able, before I even begin the year, to know where each child stands and group accordingly.

So the child comes in a math group, reading group, those kinds of things. I tend to write my own plans because I keep children for an average of 3 years. So, I will write a plan that I will be using myself.

I think the big complaint is that they do take so much time and I think if the school system did allow for released time it would make a big difference.

I happen to be good at writing IEPs. Other people have a lot of trouble doing this. More in-service training needs to be done on how to write those plans.

Several effects of the law on the special needs child: One of them is the public law by its nature causes the teacher and parent to focus on the individual education of the child. This leads to much more realistic expectation for both parties and vastly improved education for the child. In the past everything was very general. People sort of taught reading at a certain level, and now you can really zero in on exactly what level each child is on.

The emphasis on least restrictive alternative has led school districts to reexamine their policy of shuffling handicapped children away from their home schools into isolated homogeneous settings. This benefits the handicapped child by keeping them in their own neighborhood.

My son had to leave the house at 6:30 in the morning and did not get home until 6 o'clock at night because he had to go to a school for the deaf quite a ways from our house. This wouldn't happen under this law. He would be provided facilities within our school district.

Prior to any placement, each child of course is much more carefully examined than in the past, more tests given by highly trained people and specific weaknesses or strengths are identified. IEP is written for each child's needs.

I no longer have a lot of emotionally disturbed children in my class which I have had in the past, and this is really good.

The child benefits also from the forced increased parent involvement. They are coming to placement meetings and paper signing. I have found kids in my class being so excited because their parent was coming to school. This was maybe the first time their parent was coming to school. They were very, very pleased at that increased involvement in the parent. I think parents end up feeling a lot closer to the

child when they can take an active part in writing their child's educational plan.

The combination of testing, parental involvement and the placement team process has led to the identification of additional needs of some children. These needs include counseling, speech, occupational therapy, physical therapy and aides. Prior to the enactment of Public Law 94-412, special needs children were often not able to receive these services when appropriate to their total educational program.

Again, money has been a problem. In New Hampshire it is a particularly big problem because we do not have a State tax, just a real estate tax, and all our education is based on real estate taxes. So the people who live in Laconia feel it very strongly every time we have to put more money into special education. People look at me and say, "Oh, God, here she comes again," because I am always pushing through more services for these children.

I have really seen a big change now that they are getting speech, occupational therapy, physical therapy, and this has really helped a lot. My school system is going by the law. If the placement team does decide this is what the child needs, it is provided. This probably does not happen in a lot of other school systems.

In our county there is another school system where there are six or seven different court cases taking place because the services are not being provided. I am sure that the school system will lose and the services will be provided in the future.

On the whole I think the Public Law 94-142 has been excellent for both teacher and for children, and I am very, very pleased that it has been enacted. There are bugs that need to be ironed out. It should remain the way it is for another 2 or 3 years and we should try to work those things out before many changes are made.

Thank you.

Mr. SIMON. Thank you very much.

Mr. Erdahl, we are going to hear from all witnesses and then proceed from there. We have heard from the Scandinavian member of the crew here first, Mr. Erdahl.

Mr. ERDAHL. Very good.

Mr. SIMON. Which I am sure Mr. Erdahl thinks is appropriate.

Marilyn Crawford.

#### STATEMENT OF MARILYN CRAWFORD, GARFIELD ELEMENTARY SCHOOL, FAIRFAX COUNTY, VA.

Ms. CRAWFORD. Thank you.

I would like to say I probably have a much less formal statement since I stepped in at the last minute. I am very happy to be here.

I am a general education teacher. We have been working with a non-categorical program for early childhood and it has been funded by BEH.

We have tried to implement Public Law 94-142, I think successfully. We have been funded and have had a big advantage over some other schools. We used to say handicapped children should be segregated into institutions, special schools or special classes. Now, with the coming of Public Law 94-142, we are saying all school children should



to be educated in the least restrictive environment. Mainstreaming has been a big part of my working with this program.

As with all new ideas, there has been some resistance of adults to implement these changes. But I believe most of us in education are recognizing the value this change has brought. We are seeing our children learn and interact and socialize with their peers—and these are children we used to say cannot learn, much less become anything but totally dependent on society.

We're learning along with our children and that's exciting. It is a thrill for me being a general education teacher seeing a so-called "emotionally disturbed"—we are a noncategorical program I should say. He was categorized in this way earlier. He came to our school. He was placed in a noncategorical program. This youngster looked at the fellow students in a special education group and he saw some of them going into our general education classes for part or all of the day. Suddenly he was saying to himself, "That is what I want to do." Even the parents of this child had said it would never work. But go, he did. He came into a general education reading class; an exciting part to me was he contributed as much to the children as they did to him. It took work attitude changes and patience but from it we have learned and are looking at handicapped children as individuals, as individual as general education people.

Did you know that all blind children are individuals? Some people don't. All emotionally disturbed, all Downs syndrome children are individuals? Some people don't feel that way.

I would like to mention how it has started to work in my school. We were given a grant from the Bureau of Educational Handicapped. In the first year, 1977-78, we organized, publicized, wrote objectives and goals and learned all the right largon but nothing visibly happened. Many became discouraged. As with many grant programs, some of us even quit.

Part of the problem was the special education teachers were hesitant to let their charges go into the unknown environment of general education classes and the general education teacher was not sure of the expectations or capability to handle the situation. Then we realized that the least restrictive may not include mainstreaming for everyone or may include general education academics or perhaps nonacademics, such as P.E. music and related subjects.

Maybe we will start with the lunchroom, sharing in the play group. This caused a great commotion in the beginning. We were together but really there was space between us. Not in our third year that space has disappeared. The interaction is such that no one notices any difference between general and special education students. After the first year more progress had been made than was realized. It was then we put in a specific but flexible plan on paper. This had not been a natural process, perhaps because of our past conditioning. That is why this plan was devised.

I will not give you the details because it would not mean much to lay people, but we know when you do have definite procedures to follow it instills confidence and eliminates much of the margin for error.

In our program the lines of communication are ongoing between special, general education and resource personnel. Daily contacts are a must. Parents are an important part of this team of adults and our goals have never changed. They remain to provide an education that is best suited for each individual. This of course works from general education to special education also.

Many students that we looked on as just not academically oriented or motivated that we have begun to realize may have a disability that we previously had not recognized. Their placement in the general education setting may have been so restrictive that it stifled any desire to learn; consequently, a low self-esteem. Many of our children are now being helped by specialists or a resource person that understands that disability that does exist and how to deal with it.

How many of you remember from your elementary school days that classmate that just did not fit in with the group. We now have the understanding and training to help that child. I've seen children that were nonreaders gain confidence from the help from special education and develop their potential in other ways.

One example is the child that is beginning to read now—several grade levels below what is expected of that age group—but can verbalize on most any scientific subject and seems to know more about world events than any other, or that late bloomer who is chairman of the audio-visual committee and recognized among his peers for his expertise. It could have been a different story had it not been for a very special learning disability teacher. I feel progress has definitely been made.

The first conference I attended and the new law was mentioned, there seemed to be a contagious attitude as to who, what, when, where and why are we having to go through all of this? But with each special experience, teachers are accepting these ideas and responding very positively.

The school that I am familiar with has had extra funds in order to implement the new law. We have had adequate personnel to help in our efforts. Schools that lack funds must certainly have some concerns. I am familiar with a few of them as we have the same concerns at our school, and they are; adequate in-services for professional development, sufficient support personnel and aides to carry out an effective program; class sizes, and they do make a difference when you are mainstreaming several children into your general education class. There is a big difference between 25 and 30 children in a classroom, providing adequate non-teaching time for the additional task required. Every teacher I know has an extended day now, far beyond classroom hours.

I do have the plan that we devised and I would be glad to share it with any who are interested.

Mr. SIMON: We shall enter that into the record at this point.

[The information referred to above follows.]

Nontheoretical Early Childhood Program  
 Fairfax County Public Schools  
 Garfield Elementary School  
 7100 Old Keene Mill Road  
 Springfield, Virginia 22150

## MAINSTREAMING RECORD

Teacher's Name \_\_\_\_\_

Initials

① Identified Child			
② Identified Level	Subject Area	Teacher	③ Observation
④ Teacher Conference			
a) What skills are now being covered by General Education?			
b) What specific behavior procedures are relevant for this child?			
c) Are there any specific adaptations relevant for this child?			
d) What specific assistance will the special education teacher take in mainstreaming this child?			
e) Projected starting dates and times			

⑤ Notification of Resource Teachers	Response	Date
a)		
b)		
c)		
d)		

⑥ Parent Conference

Phone \_\_\_\_\_

Conference \_\_\_\_\_

Comments:

Parent's Signature \_\_\_\_\_

⑦ Trial Period

Beginning Date \_\_\_\_\_

Time of Day \_\_\_\_\_

Length of Trial \_\_\_\_\_

Review Date \_\_\_\_\_

⑧ Follow up Meeting

Date \_\_\_\_\_ Time \_\_\_\_\_

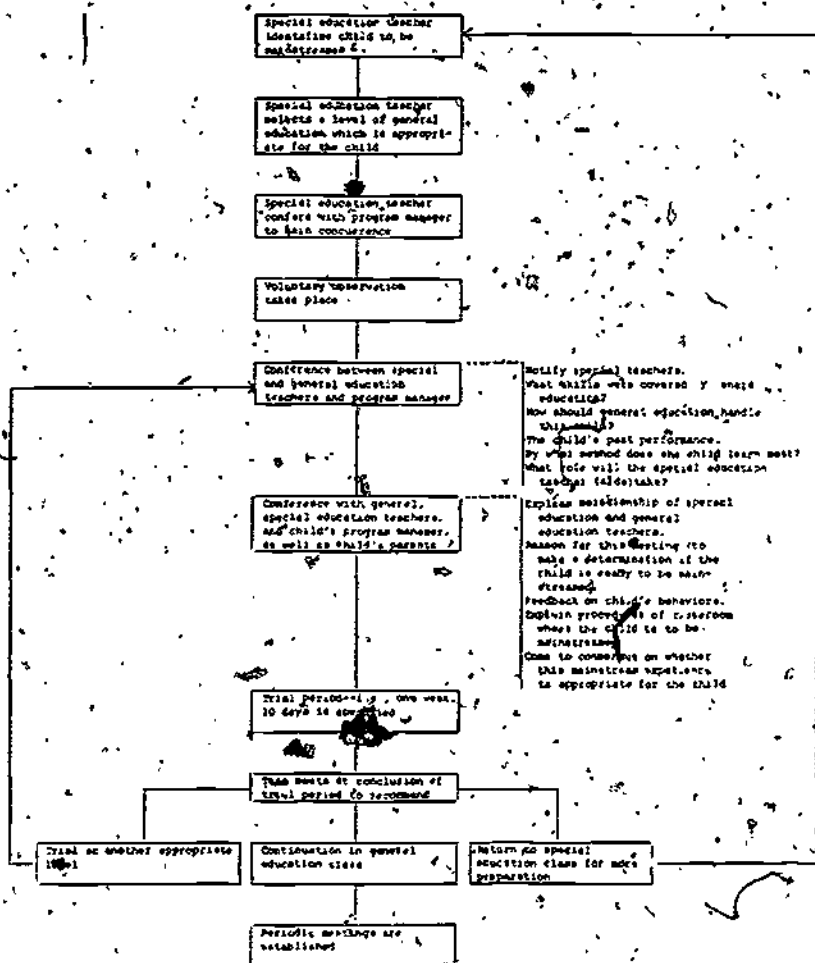
Involved Staff:

(PS-7/78)



## APPENDIX A-2

## PROCEDURE FOR MAINSTREAMING



## PROCEDURE FOR MAINSTREAMING

## STEPS

1. Special education teacher will identify the mainstreamable child by using one or all of the below mentioned techniques.
  - (1) Behavior survey—Cassel's
  - (2) Parent interview
  - (3) Observations
  - (4) Academic achievement—Assessment tests
2. Special education teacher will select a level of regular education which is appropriate for child placement. The subject area and teacher will be selected at this time, subject to regular education teachers approval.
3. An observation of the regular education classroom where the child will be mainstreamed must be made by the special education teacher. The teachers will work out a mutually convenient plan for observations. Aides, substitutes may be

utilized for this purpose. If the general education teacher feels the need to observe this child in the special education program, the same applies.

4. Special education teachers will schedule a conference between regular education, special education and L.D. Resource teachers. The agenda will include the following items:

- (1) Skills covered by regular education.
- (2) Specific behavior techniques used for the special education student.
- (3) Specific adaptations needed for the child.
- (4) Specific assistance the special education teacher gives in mainstreaming this child.
- (5) Projected starting dates and times.

Teachers should complete items 1-4 on the mainstreaming record sheet prior to the conference.

The following options may be used in setting up a conference time:

- (1) From 8:30-9:00 A.M. any free morning.
- (2) From 3:30-4:00 P.M. any free afternoon.
- (3) Release time utilized (P.E. and music).
- (4) Use of a substitute/aide during school hours.

All of the above options are within contract hours.

5. Special education teachers notify all resource personnel involved with this child.

Find out if additional assistance is necessary.

Answer any and all questions.

(Give description of the child.)

6. Special education teacher should set up a conference between the involved teachers and the parents. Agenda should include:

- (1) Parents feelings about mainstreaming.
- (2) Clarification of mainstreaming and presentation of the 2 different learning environments.
- (3) Feedback on child's behaviors.
- (4) Parent determining the appropriateness of this placement.

7. Set a trial period which is flexible, but gives some idea as to when placement should be reviewed. This period may be extended.

8. General education teachers notify principal and have a notation made on office copy of class list.

9. Regular education teacher will be responsible for scheduling follow up meetings for the purpose of communication. These meetings should be at least monthly or when the need arises. Resource teachers should be given the opportunity to participate. A re-evaluation of services given to the regular education teacher should be made. Refer to question "4D". Any changes (additions or deletions) should be noted.

Ms. Crawford. All right. Thank you for letting me share some of these thoughts with you.

Mr. Saxon. Thank you very much for being here.

I am going to call next on Walter Tice:

If I may apologize in advance to the panel and the other witnesses who are to be here, we are at the point where we are moving into conference on the budget where, among other things, we have 94-142. I am going to have to duck out immediately and get over there on that. I am going to ask my colleague from Minnesota to take charge, but I will have to leave in a few minutes. My apologies for doing so.

Mr. Tice.

#### STATEMENT OF WALTER TICE, VICE PRESIDENT, AMERICAN FEDERATION OF TEACHERS

Mr. Tice. I will speak very rapidly.

I am Walter Tice, a classroom teacher in Yonkers, New York, and vice president of the American Federation of Teachers, AFL-CIO. On behalf of the 520,000 teachers, paraprofessionals, and other education personnel who are members of AFT, I would like to thank you

for the opportunity to offer our views before this committee on Public Law 94-142, the Education for All Handicapped Children Act.

I would ask that you include in the committee records the report that we have submitted.

Mr. SIMON. We will enter in the record at this point the full statement.

[Prepared statement of Walter Tice follows:]

PREPARED STATEMENT OF WALTER TICE, VICE PRESIDENT, AMERICAN FEDERATION OF TEACHERS

I am Walter Tice, a classroom teacher in Yonkers, New York and vice president of the American Federation of Teachers, AFL-CIO. On behalf of the 320,000 teachers, paraprofessionals and other education personnel who are members of AFT, I would like to thank you for the opportunity to offer our views before this Committee on Public Law 94-142, the Education for All Handicapped Children Act.

Because we believe strongly in the right of all handicapped persons to a free appropriate public education, we supported passage of Public Law 94-142 in 1975. Yet, reservations we expressed at that time about certain aspects of this law have proven to be well-founded. We would like to use this opportunity to point out how several sections of the law designed to protect handicapped student's rights in reality result in just the opposite.

The root problem underlying the negative effects Public Law 94-142 has had is insufficient funding. If there were billions of dollars available to the schools through this legislation, problems arising from various requirements of the law would be overcome. But obviously this is not the case. In its "Survey of Special Education Costs in Local School Districts. An Assessment of the Local Impact of the Education for All Handicapped Children Act," the National School Boards Association in June, 1979 reported that local school district budgets for special education are rising by 14 percent a year as compared to only a 7 percent per year rise in the instructional and operating budgets. The Committee is no doubt aware that many school systems were besieged with severe financial problems prior to implementation of Public Law 94-142. Likewise, you know the public mood is one of maintaining or cutting back on spending. Including education dollars, at both the state and local levels. This leaves most school systems with one choice—new money needed for special education must come, at least partially, from the regular instructional or operating budget. These budgets, especially in urban areas where the majority of handicapped students are and where special education costs are the greatest, in many cases were already paired to the bone.

While the annual per pupil expenditure for regular education in fiscal year 1980 will average \$1,819, the same for handicapped pupils is \$3,638. The excess cost contribution to be made by the federal government in fiscal 1980 will be \$219 per child or slightly less. This leaves the LEA to find, on the average, an extra \$1,800 per handicapped student. These averages don't take into consideration the added costs of due process hearings, transportation, and additional staff time.

Here we want to point out very clearly that we are not suggesting that full educational services as mandated by Public Law 94-142 should be withdrawn from handicapped persons. On the contrary, we want to maintain such services but eliminate requirements which serve to diminish the quality of education provided both handicapped and non-handicapped students.

As you will see from the policy resolution attached which was passed at our 1979 convention, the 240 delegates who attended called for modifications in Public Law 94-142 which would first provide adequate federal money to meet the new mandate, second, eliminate the IEP process which has only resulted in further reducing child-teacher contact time, and third, prevent least restrictive environment placements from being used as a cost-saving device without insuring that the receiving teacher is adequately trained or informed or the receiving classroom adequately prepared and equipped. We would like to expand on these last two problems.

TEP

A 1978 AFT convention resolution calls for legislation that will remove the "onerous mandate" of individualized education programs and allow teachers,

as professionals, to plan appropriate educational activities for the children in their classes." Does this mean teachers do not want to teach handicapped children or that they do not want to individualize instruction or that they do not want parents to know whether their children are receiving appropriate services? Of course not. The IEP is a very fine sounding proposal which looks nice on paper but when actually implemented in the schools becomes a nightmarish disaster.

If you so desired, we could submit an extensive list of problems associated with development of IEPs. But let us refer you to the IEP section in the "Case Study of the Implementation of Public Law 94-142" prepared for BEH by Charles L. Blascke at Education Turnkey Systems, Inc. This study reported that IEPs for the most part are developed around learning activities which can be most easily provided; the time teachers spend writing IEPs is significant, as is the time the teacher spends in revising the IEP when, as is often the case the teacher who implements the IEP is not the one who wrote it; parental involvement in most instances is limited to attendance and approval, with little interaction on the development of specific instructional programs; many parents feel intimidated by LEA staff or feel the process is too complex; and the IEP meeting has become essentially a formal mechanism for complying with the law rather than for informing and involving parents.

If schools could hire as much personnel as needed, the IEP process might create no problem. But it is usually teachers who must make the parental contacts (this may involve numerous phone calls and even visits to their homes), who usually must write up a tentative IEP prior to the meeting, who often have to leave their classrooms to attend such meetings, and who then write up the final IEP. The effect on instructional contact time with children, teacher planning time and teacher morale is devastating. Consider a speech and hearing therapist. This teacher used to have an average caseload of 60 to 80 students. With increasing numbers of handicapped children being identified but a shortage of funds for necessary personnel, this caseload may now go over 125. The teacher therefore is involved in developing and/or reviewing IEPs for 125 children. It is not hard to imagine how all of the duties associated with getting an IEP ready for even one child involves substantial time but now multiply this by 125 or even 60. Yes, this is certainly difficult for the teacher but imagine how much time the teacher actually has to work with children. They receive the least, and the worst from the IEP process, no matter how ironic this may seem.

We must therefore recommend that the present IEP process be deleted from Public Law 94-142 or at least suspended until Congress can conduct a thorough investigation into the effect it is actually having on the education of handicapped children.

There possibly is an alternative which would allow the IEP process to work but it would be expensive and those funds would have to be provided by the federal government. The IEP process might accomplish its goal if it were required by law that:

(1) All parental contacts required to set up IEP meetings were to be made by administrators and not by teachers, counselors, psychologists or other support personnel whose time should be devoted to working with children;

(2) Special personnel be hired to attend IEP meetings and write up the individualized programs agreed to by the participating parties;

(3) Teachers be provided with an additional preparation period during which IEP meetings can be held so as not to have these meetings keeping teachers out of the classroom and lessening the time they spend in instruction (teachers could also use this time for consultation with support personnel and inservice education which are so sorely needed);

(4) Administrators may not discourage teachers from asking for the IEP services, resources or equipment needed by a child simply because of their cost;

(5) Teachers may challenge the effectiveness or appropriateness of an IEP for a child through the due process mechanism;

(6) Every teacher will be guaranteed inservice education by the LEA on how to write an IEP;

(7) IEPs clearly do not hold teachers liable if students do not attain the established goals;

(8) The IEP is to be a brief, general statement of annual goals for a child, outlining various developmental skills or levels which the child will hope to accomplish or reach. (Short-term instructional objectives should be deleted from the IEP as these must be flexible and should not require reassembling the IEP



planning group each time a minor change is determined to be needed in a child's programs).

If the above conditions were to be established by law and supplemented by appropriate funding, the IEP process would be workable. Otherwise, it will continue simply to deprive children of instructional time, and the time they do have with the teacher will, despite the window dressing of the IEP, be much more poorly planned. Although our list of eight conditions frequently mentions teachers and support personnel, a careful reading will show each of these affects the quality of services provided children, not the self-interest of teachers.

Finally, we reiterate on this topic that we are asking for a suspension, deletion or revision of the IEP section in Public Law 94-142 because our members, regardless of the size of their school system, have consistently and with great concern reported that the IEP process is simply resulting in less education for handicapped children and increasing frustration for parents and school personnel.

#### LEAST RESTRICTIVE ENVIRONMENT PLACEMENTS

Confusion over the meaning of this concept, as well as scarce dollars in a time of rapidly expanding special education costs, has led to abuse of least restrictive environment placements. Here again, AFT fully supports the concept of the least restrictive environment placement (often referred to as mainstreaming) for some children when done under the proper conditions. Despite the fact that there is no research to show that such placement is effective (see latest comprehensive study on this subject done for BEH by Wynne Associates in 1975), we support the idea on philosophical grounds. It makes sense that if a child can function effectively in a less restrictive environment, he or she should be able to go on to live a fuller, more normal life.

Yet the desperate financial condition of the schools has made a Dr. Jekyll and Mr. Hyde out of this requirement also. We have already cited in this testimony the fact that the average cost of special education is at least twice that of regular education. Normally, the more "restrictive" the education, the more expensive. Couple a situation of too few dollars with a law encouraging placement of handicapped children in least restrictive environments which just happen to be ~~unnecessarily~~ less expensive and imagine what is happening out there in the schools.

Not only are the parties involved in the IEP process usually totally ignorant of what the IEP is and how to do one, but the LRE requirement has created many new roles for school personnel and in an overwhelming majority of cases, no inservice education has been provided. You may be startled to know that in almost all workshops related to Public Law 94-142 which we do around the country for teachers, paraprofessionals, counselors and psychologists, it is the first and only inservice they have received.

Can this be said to be those educators' self-interest also—that they should be crying for inservice education? Here too it is children who are suffering. The special education teacher's role has changed. They are shifted to new responsibilities as more and more handicapped children are identified and enrolled in the schools. That the special education teacher can teach any handicapped child is a misconception. They specialize in various areas and the teacher who has been working with educable mentally retarded children may need extensive inservice training before being competent to work with trainable mentally retarded children. There are many other examples, all of which are evidenced by the growing divisions and strictures on certification within areas of special education. Also, as larger numbers of children are "mainstreamed," special education teachers are increasingly assigned to resource rooms. Two problems are common in this instance. Often the number of children the resource room teacher works with has risen to the point where the teacher can hardly give the individualized instruction intended, let alone help other teachers plan activities, lessons, and materials to be used with mainstreamed children. Even when there is time for this type of consultation, the resource room teacher who has not been trained to work with adults and received no inservice for this new role often is therefore ineffective. Regular teachers suffer even more by the lack of inservice training and the almost total lack of accessibility to support personnel.

Once more it is children who suffer. By the mid-1970s when Public Law 94-142 was implemented, there were many flaws in special education which led us all to support this law in the hope they would be corrected. Part of this goal has been accomplished. Testing procedures are improving, although the schools

still do not have nearly enough testing specialists, diagnosticians, psychologists or counselors and although there is still no law or regulation which prevents an inordinate amount of time to go by between the time of referral and actual testing and diagnosis. Children should now have a better chance of "graduating" from the special education program into the regular one because of the reevaluation required at least once every three years. Yet despite its merits, special education in the mid-70s was a highly developed, specialized field, and the sophistication of services to handicapped children was growing by leaps and bounds. Now, after implementation of Public Law 94-142, you have a situation in which most teachers feel inadequately trained to work with children given to their care or feel that they cannot do so effectively in the environment or setting or with the insufficient resources provided them. If teachers and other school personnel were an insensitive and uncaring lot, we could ignore this situation, stick these children in a corner somewhere and go about our business. Indeed the attitude of DEH and some advocacy groups has been that the law should not be touched for at least three or four years in the hopes that its bugs will work themselves out. But we who see these children's faces day in and day out, who know their dreams, their joys, their setbacks, we can not in good conscience sit back and see these hundreds of thousands of children used as guinea pigs. We implore this Committee not to be drawn down this avenue.

Instead, the least restrictive environment placement provision of Public Law 94-142 should be expanded to allow placement of a child in a less restrictive environment only if:

- (1) Receiving personnel, including teachers and paraprofessionals in special or regular education, have been informed of such placement and provided inservice training to enable them to work effectively with the child prior to placement;
- (2) The child's emotional, social and physical well-being are considered in addition to cognitive benefits in determining the placement of the child;
- (3) The LEA has assured availability of adapted resources, instruction on how to use them, if necessary, and access to support personnel as needed;
- (4) The child's health and safety are guaranteed in the new placement situation;
- (5) School personnel are free of all liability which might result from a less restrictive environment placement, which requires them to perform new or non-educational tasks;
- (6) Transitional programs are available to handicapped children, non-handicapped children or school personnel whenever needed, prior to placement;
- (7) Children can perform within the normally expected ranges of achievement within the placement setting;
- (8) Certified special education teachers and support personnel are available in ample numbers to assure that "special attention" can follow the handicapped child into the less restrictive setting;
- (9) Teachers have regularly scheduled release time for consultations with support personnel, whenever needed;
- (10) Scheduling of the educational program and buses conforms to individual needs of handicapped children and not vice-versa;
- (11) Assurances are given that regular class sizes will be reduced if special education students are assigned to them, that no more than three handicapped children will be placed in any one regular classroom to prevent potential for abuse, and that special education maximum class sizes not be exceeded;
- (12) It is recognized by all SEAs and LEAs that a less restrictive environment for many students, as opposed to a traditional setting, would be unproductive;
- (13) Safeguards exist to assure that funds designated for special education follow the child, even if in a less restrictive environment.

If the above mandates cannot be set by law, the present practice in growing numbers of school systems of "wholesale mainstreaming" could eventually progress to the point that we have accomplished little more than tearing down a system of special education it took this entire century to build, without replacing it with anything better. Perhaps we should keep in mind Horace Mann's warning that "one former is worth a thousand reformers."

We suggest that in this case also Congress would benefit from a careful investigation of how the least restrictive environment requirement is being imple-

mented in schools throughout the country and the impact this is having on handicapped and non-handicapped children alike.

Reports to us from our membership in the schools indicate that the schools have been unable to obtain the monies needed to meet Public Law 94-142's mandate, that consequently there are extensive abuses of the law and a massive cover-up of these abuses by school boards and administrators. It must be remembered, however, that if they were to come forward with the true but tragic picture of what is going on in the schools as a result of Public Law 94-142, they would open themselves up to innumerable law suits, as well as to a cut-off of desperately needed federal funds. Perhaps a 6-month moratorium on non-compliance penalties should be called to allow SEAs and LEAs to report to Congress the true impact of this legislation. If the consequences of Public Law 94-142 are not seriously studied and its strengths and weaknesses documented, many children—handicapped and non-handicapped—will be denied a decent education. In these times, this is hardly a viable option. Congress must also reevaluate its commitment to education of handicapped children in terms of the paucity of funding offered to back up this much needed commitment.

We would recommend additional changes in the law including the right of teachers to initiate the due process mechanism as a child advocate when it is felt the parents or LEA have not acted in the best interest of the child and cannot be persuaded to do so; the right of teachers to be accompanied by counsel who may question and cross-examine witnesses in due process hearings (BEH has ruled against this); and a statement prohibiting any provisions of Public Law 94-142 from violating existing collective bargaining agreements, as long as these do not infringe on the civil rights of handicapped persons.

We could give many more examples of problems associated with Public Law 94-142 but this would involve submitting testimony of excessive length. For this reason, we ask for a thorough investigation of the law's impact in the schools and an opportunity to meet with committee staff at some future time to discuss various aspects of the law and how they are actually affecting children in the schools.

We have discussed here the major weakness of Public Law 94-142 in the hope that they can be overcome so that our mutual goal, the provision of a free appropriate public education to all handicapped children, can become a reality—not a paper pipedream. Thank you for this opportunity to express our views.

#### AFT POLICY RESOLUTION—1979 CONVENTION

##### PUBLIC LAW 94-142

Whereas, the AFT supports the objective of providing effective educational services to handicapped children contained in Public Law 94-142, and

Whereas, Public Law 94-142 (The Handicapped Children's Act) and the federal regulations created by H.E.W. to enforce it have created federal mandates on state and local school districts which have required the expansion of expensive services to handicapped children without supplying adequate funding thereby frequently necessitating serious cut-backs in services to non-handicapped children, and

Whereas, the complicated and time-consuming processes required by Public Law 94-142 have increased paper-work time for teachers, counselors and para-professionals and have resulted in the reduction of child-contact time, and

Whereas, the "least restrictive environment" mandate has resulted in the wholesale mainstreaming of handicapped children . . . without insuring that teachers into whose classes the students are placed are adequately informed regarding the placement or adequately trained prior to the placement, and

Whereas, the wholesale mainstreaming of handicapped children created by Public Law 94-142 has been beneficial to some children it has been educationally and emotionally harmful to other handicapped and non-handicapped children, and

Whereas, such serious harm is being done at this by the improper implementation of Public Law 94-142 and its regulations;

Resolved, That the AFT, while continuing to support the objective of providing effective educational services to handicapped children, works to modify the provisions of Public Law 94-142 and its regulations in order to end the serious problems stated above, and

*Resolved*, That the AFT notify the above agencies of government that immediate investigation of these conditions and action to correct them should be taken within a short period of time, and

*Resolved*, That, in the event that corrective action is not taken within a short period of time, the American Federation of Teachers shall seek federal legislation to suspend immediately further implementation of the mandates of Public Law 94-142, in respect to the matters stated above, while local school programs for handicapped children and the federal moneys adhering to these programs continue until

1. The federal government provides every dollar of new moneys needed to implement the federal mandates.

2. Teachers and paraprofessionals who are or will be teaching mainstreamed students have the opportunity to complete the necessary professional in-service training.

3. Study on the full effects of Public Law 94-142 on handicapped students and non-handicapped students and its impact on the structures of state and local school district financing be conducted and made available to Congress before it acts to restore the Public Law 94-142 mandates. (1979)

Mr. TICE. I would like to immediately get to the bottom line because I do not want to get there after you have gone.

Our organization supports fully the objectives and purposes of Public Law 94-142. We did when it was being enacted and we do now. But we feel that it is very important that somebody say to you and to the committee that the problems with this law have reached such a stage that we must say to you, something has to be done because too many children are being harmed by the law.

Now, I want you to get a proper perspective on what I am saying. We believe the law has had positive effects for many children—I think the two teachers who spoke before me gave some very good examples of that—not only for handicapped children, but for nonhandicapped children who would have had an opportunity to mix with handicapped children and overcome some biases that perhaps were there.

But the other side of the picture has not been portrayed accurately. That is, there has been very negative impact on some handicapped children and some nonhandicapped children in this country. When I say some, I should say very many.

I would like to, because you will get other kinds of testimony, I will concentrate on that. Three basic things:

First is the least restrictive environment mandate. We understand the objective of it but the impact has been that there has been wholesale mainstreaming of handicapped children into regular classrooms across the country. We are supportive of what we would call the rifle approach, where you take an individual child who is ready, bring him back in. That existed before this law went into effect. But the impact of the law has been to push school districts into wholesale mainstreaming. I want you to get the reality.

I am a ninth grade social studies teacher. I have had handicapped children mainstreamed into my classes in the last 5 years. I have not had one moment of training. Right up to this very moment, to handle handicapped children. We are free, I think, to say that this would be true of 80 or 90 percent of the teachers who are currently teaching handicapped children in American schools have not been trained, not one moment.

There is something wrong with the law that insisted that teachers be placed into our classrooms without insisting that we be trained before the children get there. We ought not to be experimenting with



handicapped children and the rest of the class nonhandicapped children in that manner. In 3 of those 5 years, I was never even informed that the handicapped children were in my classroom. I determined that quite by accident over the first several months of the school term. That sounds terrible, and it is.

I thought maybe it is a local problem. Yet when we go into the conferences that the AFT holds, we find out this kind of abuse is not localized, tends to be fairly widespread. That is how it is really working.

For instance, the first speaker mentioned that she now has some say as to who is placed in the classroom. I not only do not have a say as to who is placed in my classroom, I am not even advised. I am not a special education teacher.

She also said she no longer has ED students in her classroom. That is good. I can tell you where they are; they are in my class. I am not trained to handle them.

By the way, there is no change in my class size. I still have 30, but 4 or 5 are now emotionally disturbed. It used to be in classes of 8 or so; now it is in classes with 30. Something gives in my classroom. Either I have to spend a great deal of time on them or just make believe they are just a regular member of the class.

That is happening to hundreds of thousands of nonhandicapped children into whose classes those children are being programmed without the kinds of help that is absolutely basic. The law does not provide it. The law in fact creates a situation where that is not possible.

All right. Now I would like to get to the money part. I live in Yonkers, N.Y. It is contiguous with New York City. When New York City had its fiscal crisis it spilled over, we had a fiscal crisis. What that means in my city is we have a confined budget. There is no leeway in the budget, none at all.

Now comes the mandate, very little money with the mandate, much less than it costs. What happens in my school system is, we have had to take money from the regular school budget to put into the handicapped. Now we are in favor of money going into the handicapped. We are not in favor of a diminution of a program for other children as the way of doing it. I do not think Congress intended it to work that way, but that is the reality of what is happening in the schools in America, at least most of the city school systems.

Now the last thing, the IEP.

The IEP theoretically is a wonderful instrument but, once you look at the details, it begins to fall apart. Which teacher gets involved in writing the IEP? The one who had the kid last year, who knows all about it but will not have to implement it? Or the teacher who is going to get the kid this year, knows nothing about him, but will be implementing it?

What happens in a high school situation, where you do not have one teacher involved but you have multiple teachers involved? How does it work? I have never had an IEP shown to me of a student that I am teaching, I have never seen one, ever; imagine that, 5 years, and I am the president of my local. So you would think they would be a little more careful.

The only time I find that information is when I go to the special education teacher and say the student is in my class, what can I do? Then I get some information.

I find in my district the special education teachers, particularly when they have not 10 or 12 but 30 or 40 or 50 students that they are responsible for writing IEPs for, and they are told the law requires them to have it within the next 30 days, you must meet with these parents and write up an IEP. So, what is being turned out is some of the greatest fiction that is being put into the school systems in this country.

Now I know that in many cases like the two teachers described here, that is not so. I am talking about large school systems where you have a great many handicapped children and where you don't have the funds available for the kinds of services that they have been talking about. That is reality. Somebody has to stand up and say that, although the objectives are good in this act, the way it is operating now is so destructive of so many children in the country that something must be done immediately or it ought to be suspended until it is done.

Now that is basically the position of the American Federation of Teachers. I ask you to read the whole document because it goes into quite a lot more of the detail.

Mr. SIMON. If I may violate my own rule here just to toss one question out because unfortunately I am going to have to leave soon.

The kinds of changes that you suggest seem to me to be changes that could be made by executive action or by rule rather than statutory change. Would that be a fair assumption?

Mr. TICE. I do not believe so. I believe some of it; a good deal of it can be done in terms of the regulations. A great deal of it I believe is in the language of the law itself, the way it is written. Certainly the funding part is.

Mr. SIMON. Do you touch on those changes in your statement?

Mr. TICE. Yes; we do. Thank you very much for hearing us.

Mr. SIMON. Please take over.

Mr. ERBAHL. Thank you very much. Who is the next person on our schedule?

Will you identify yourself for the record and proceed? Your whole statement, of course, will be entered into the record and you can give it or summarize it, whichever way you feel more comfortable.

Mr. Cameron.

#### STATEMENT OF DONALD E. CAMERON, ASSISTANT EXECUTIVE DIRECTOR, NATIONAL EDUCATION ASSOCIATION

Mr. CAMERON. Thank you very much.

My name is Don Cameron; I represent the National Education Association, comprised of almost 2 million members across this country. Our full statement we would like entered into the record, and I would like to synopsise and editorialize on that statement at this time.

When Congress enacted Public Law 94-142, the Education for All Handicapped Children Act, it recognized the fact that providing a "free, appropriate public education for handicapped students" would require extraordinary effort, new expertise for teachers and administrators, new programs, and vast new expenditures.

The National Education Association, representing the teachers who were to carry out this law, applauded this new Federal commitment

to solve a critical problem. We still applaud the concept. I must agree with my colleague, Mr. Tice, however, that even though Congress authorized an accelerated funding schedule, appropriations to date have fallen far short of meeting the staggering financial burdens imposed upon the schools. This in turn has caused significant problems in implementing the law throughout the country.

The period since enactment of this landmark program has been difficult for State and local systems which found themselves unable, even with some Federal dollars, to implement the law effectively and in the best interests of students, parents, and teachers.

The NEA is pleased that officials of the Bureau of Education of the Handicapped (BEH) took the initiative this year to seek the opinion and suggestions of professional educators and parents to help clarify the regulations which govern the implementation of Public Law 94-142. If the law can indeed be properly implemented without amending the statute or changing the regulations, then we agree that that is the economical and effective course to follow. We need to know, however, whether policy statements issued by BEH will have the force of law and whether such policy statements will include recommendations we will make. If so, fine; if not, then we suggest that the recommendations be included in future revisions of the law.

In meetings NEA has held around the country, as well as continued feedback from our members, our teachers have highlighted for us the hindrances they are encountering as the program is carried out. We'd like to share some of these comments with you.

Public Law 94-142 sometimes demands more than a school district can provide because Federal funds are simply inadequate.

The single greatest deterrent to the success of implementing Public Law 94-142 is the fact that the Federal Government mandated this program without appropriating adequate funds to aid State and local agencies in carrying it out. There is just no way that State and local school districts can be expected to come up with money without severely and irreparably damaging existing education programs. To lower the base for funding for all students in order to implement this program we think is wrong, detrimental to the students at large, certainly detrimental to the handicapped students.

The NEA recommends that authorization levels must be increased and fully funded so that districts can afford to provide the services required by law.

Inservice training mandated by the law has been provided for very few educational personnel who bear responsibility for implementing the program.

I would like to reiterate what has been said. Thousands of teachers across this country who are responsible for teaching these children have not had one single iota's worth of training in order to provide the expertise necessary to fulfill the requirements of the law. This is not only tragic; it is semicriminal.

NEA recommends that the BEH should develop and publicize precise descriptions of the components of a quality program for personnel training and retraining.

Both regular and special education teachers should be placed on State personnel development panels to help develop recommendations for realistic inservice programs.

We believe teachers should have a prominent role at the local level in helping to determine the content of inservice programs.

The full range of authorized incentives in the law should be made available to teachers so that they will participate in inservice programs.

In summary, no teacher should be assigned a handicapped student until the teacher is trained to understand and teach such a student. While that may seem elementary and rudimentary, it is a sad but true fact of life in this country.

Third, teachers report a problem with delays in delivery of needed services. In some instances, students have waited for long periods of time to have their needs assessed and then have not been placed in appropriate programs for further long periods of time. There is evidence that, in order to save money, school officials are purposely not identifying students or are waiting to assess students or waiting to serve students who have been assessed.

We recommend that the BEH should press local and State school officials to comply with the child-finding and servicing components of the law.

Fourth, intolerable paperwork in preparing IEP's has been generated by 94-142. While esoterically it may be a worthwhile experience, teachers are forced to prepare anywhere from 26 to 46 papers for each student for implementing this law. We believe something should be done immediately. It is wrong. We should put aside the burdensome paperwork required by teachers in implementing the law.

Additionally, we believe teachers should be afforded released time in order to prepare IEP's. To the maximum extent feasible, consultation necessary for the development of IEP's should also be on a released-time basis. Not only are teachers being forced to do all of this paper work, but they are given no release time to prepare it. This simply compounds an already very complex problem.

Next, we believe that only tests of proven validity should be administered and then only at appropriate times by personnel specifically trained for this purpose. The problem is that standardized testing of dubious validity has increased and is a major factor in the mismanagement of Public Law 94-142 around this country. We believe that the whole process needs to be studied carefully.

Next, many regular classes, already overcrowded by students with numerous learning needs, are becoming even more crowded by the placement of handicapped students.

"There seems to be a reluctance on the part of some administrators to take into account the effect of placing handicapped children in the same class with nonhandicapped children, and the effect of placing handicapped children in large classes.

The law should prescribe a formula to reduce the number of students in a class when the placement of handicapped students imposes an unmanageable load on the teacher.

The teacher of a handicapped student should have the right to request reassignment of the student at any time when, in the teacher's professional judgment, the student has been inappropriately placed in that classroom. While we do not view this as autonomous, we do feel the teacher ought to be able to make these recommendations to the administration and that recommendation ought to carry some weight

In conclusion, the NEA understands that the law and the regulations are means to an end—better education for handicapped children. Complying with the law and regulations should lead to serving children better.

We urge Congress to consider the basic question: Will compliance with the law, as written and currently interpreted, result in better education? The corollary question is whether the Congress is willing to provide sufficient funding of Public Law 94-142 to enable State and local school districts to implement imaginative and locally tailored programs to insure the success of this unprecedented effort.

Thank you very much.

Mr. ERDAHL. I remark again, somewhat facetiously, we have just seen a union of the NEA and AFT. Your positions coincide very closely.

I have a couple of questions and then maybe, if you have some questions or if Mr. Simon has some he has left with you, feel free to bring those up. Evidently, what we have heard this morning is that the concept in Public Law 94-142 is pretty good but the practical implementation of it leaves something to be desired.

We have had some very good testimony. I think very frank and direct, of people who have had good experience with it in the classroom and some other people who have seen some unfortunate ones.

One of the questions that I had, I think as Ms. Olson was talking, was when you talk about these individual analyses, IEP, as you go through the system, does a new teacher write a new one or revise the old one?

Ms. OLSON. The way it is done in our school system is that we meet together as a team and write the IEP. You were mentioning—you did not know when you had a handicapped child in your class.

In our system the teacher into whose class the child would be mainstreamed is part of the process of writing the IEP. If a child is going from my class to another similar class in the middle school, that middle school teacher will sit down with me and we will write the IEP together. The way we have interpreted the law is that it is the receiving teacher's responsibility for writing the IEP plan. Of course they cannot do it without the sending teacher. We do that.

Mr. TICE. When they go to a middle school they do not have one teacher, they may have four, five, or six.

Ms. OLSON. We meet with these five or six teachers.

Mr. TICE. And they each participate?

Ms. OLSON. Yes.

Mr. TICE. OK.

Ms. OLSON. Very time consuming.

Mr. ERDAHL. I am sure that the members of the panel have some questions or reaction to your colleagues. Maybe this is irregular, but we have people with specific experiences. So if you have some comments or questions of your colleagues on the panel—

Mr. CAMERON. I have a comment.

Implementing this law is like implementing any other statute, that is, where school districts take an enlightened approach and where they have some money and where they involve the faculty things seem to go better. I am here to tell you that is not what is happening in the school districts around this country.



I am also telling you in school district after school district that kind of enlightened approach simply does not take place. The experiences that the two teachers have given here today are unique. I have not heard those reports from thousands and thousands of our teachers in workshops and working with them in local organizations.

Ms. CRAWFORD. I tried to emphasize this, because I know we have a unique situation. It does work because we have had adequate funding, the personnel, but we still have a few problems. This is an elementary school, it is early childhood, strictly a team approach. I know everything about every child who comes into my room. So it is a unique situation.

Mr. TICE. I would like to agree with everything that was just said by the NEA representative. I would like to point out that the law is so constructed that in a very subtle way encourages certain kind of school districts to get rid of special education programs, not for any educational reason but because it is cheaper to put children in classes with 30 than it is to put them in classes of 8 or 10 with a specialized teacher.

So we have seen in many of our big city school districts where they really are being pressed financially that this is looked upon as a way of reducing expenditures. We are really transferring the way of dealing with this problem from a system that has worked before, which is specialized classes, with specially trained teachers, into a system now where we are putting them into regular classes not on a title basis but on a shotgun basis, where you have, as has been pointed out by both of us, most of the teachers have no training at all.

That switching from the old system to the new system I think is something that has to be criticized. It is irresponsible, actually.

Mr. ERDAHL. I think the point has been well made here today and properly emphasized that one of the real needs is for adequate funding, adequate time for teachers. Then all of you talked about the training.

The question I have is, what opportunities are there for special educational training either in our preparation schools, teacher colleges, universities; are there seminars available? If the teachers have the time and the funds are there, are these courses available for a regular classroom teacher to get some special training in dealing with people that might have various handicaps?

Ms. CRAWFORD. In the local level we were called back to school 2 weeks early one summer and given extensive inservices for 2 weeks, each member of the team that I have spoken about. That is the way it was handled at our school. I think it was very effective.

Mr. ERDAHL. I point out that it is perhaps somewhat unique.

Ms. CRAWFORD. It is.

Mr. ERDAHL. Maybe other schools do not have it.

Ms. CRAWFORD. Perhaps it could be operable in some other schools, too. But we were given, of course, that extra 2 weeks.

Mr. ERDAHL. Anyone else have some experiences with that as far as the availability of it?

Mr. CAMERON. I can give you a general perspective.

Mr. ERDAHL. Yes.

Mr. CAMERON. The fact of the matter is that where these courses exist, and they do not exist in too many places, they are either unknown to the teachers or inadequate for what is needed, or in some instances

the courses are taught at such time that the teachers are not able to attend because of responsibilities.

The kinds of questions you raised are legitimate, but they are the kinds of questions that should have been addressed prior to the implementation of the law rather than having the law take effect in school districts and then have everybody scurry around trying to figure out how to cope with it.

I might say generally there is precious little inservice training available through the colleges and universities, and where it does exist it is inadequate.

Ms. OLSON. I would also like to mention that the special education teacher needs training to do mainstreaming also. I am responsible for the children who are coded as being handicapped, and many of these children are mainstreamed. I am responsible for their programs as they go into the public school classrooms. I am basically responsible for training the teacher, telling him what to do, modifying the programs.

I have had in my education. I have had no training whatsoever to do that. That is very hard, too. When the classroom teacher comes to me and says, "My God, this is terrible; what shall we do?" I basically do not know. It becomes a trial-and-error process. It is much better this year than the year before, but it is definitely trial and error.

Mr. ERDAHL. Mr. Tice, you mentioned, too, the children are being harmed by the law; that was your statement?

Mr. TICE. Yes.

Mr. ERDAHL. We get into this mainstream concept, people—I hate to use the term but we use it, handicapped and normal, we all have things that go across those lines. Are you talking about emotional, educationally handicapped?

Mr. TICE. Before I said that, I said many students were being helped.

Mr. ERDAHL. Yes; you did.

Mr. TICE. OK. But what is happening is, students who ought not to be mainstreamed because of the great thrust of this mandate, are being mainstreamed; and they are being harmed educationally, many times socially, psychologically. The kids who people have paid no attention to are the nonhandicapped children into whose classes these handicapped children are being wrongfully placed because those children are being disadvantaged.

When you take a look at the numbers, it is a very large number of children we are talking about. I cannot understand how the Federal Government could allow that to continue, knowing it exists and knowing that it is their own mandate that is creating this situation. You must undo that; you must start from scratch and train the people and you must do it in a rational manner so as to prevent those evils from taking place.

Mr. ERDAHL. Thank you. Do you have any questions, Mr. Birch?

Mr. BIRCH. I have a question about the development of the IEP and the amount of paperwork involved.

You mentioned Mr. Cameron, there is a heavy paperwork load demanded of teachers, and, Ms. Darby, of spending 5 or 6 hours on each IEP. I wonder if any of you could identify what part of that paperwork load is the result of State regulations that are put on over the

kinds of IEP requirements that are found in 94-142? Because what I have heard from teachers is that there is a heavy load in developing the IEP but that it is not all strictly federally required, that there are State requirements on top of that. I think if that is the case we should do something to better coordinate these kinds of operations.

Mr. TICE: I think you are absolutely right. What is happening is most of the States are frightened of not doing it right under the law and so they may overdo it because they don't want to be the reason why the funds would be lost to the State or to the local education authority. So you are right.

There is, as far as I can see, very little coordination between Federal and State in this matter.

Mr. BIRCH: You mentioned, too, Mr. Tice, that if an IEP is developed for a student who comes to your classroom, you don't know about it unless you go and ask for it. Public Law 94-142 doesn't preclude you from being involved in the development of the IEP.

I wonder who decides which participants are going to attend these meetings.

Mr. TICE: In my district it is the department that takes care of special education. They have really defined that the teacher who is involved is the resource teacher who has general control and responsibility over where that child is going to be placed in that school—special education resource teacher.

I am the classroom teacher and I don't even know if that child is going to be in my room so I am not involved in the process at all until I discover—I have gotten now where they give out a mimeographed sheet which has all the special education students being mainstreamed in my building, and I have to look at it and find my name.

In other districts it is done in a different way. But the problem is the same in many districts, that is the classroom teacher is not involved. The classroom teacher, because of the complexity, it would be very difficult to see how they could all be involved.

The resource teacher would be spending all the time dealing with that and not spending time with the child. It has gotten so big that in my district the special education teachers find that is their No. 1 problem.

Mr. BIRCH: Can you comment on that, Ms. Olson, in your case?

Ms. OLSON: I think it does take an inordinate amount of time. We have been doing it for a number of years and it took less time this year than last year. Every year we have changed the forms so every year we have to get used to a different set of forms. Once we have our set of forms and use the same forms year after year, and if we try to get less specific about our objectives and very general objectives for each child, I think that will take less time.

I don't think it is necessary to write down all the materials you will use to teach each lesson because the materials I have are not the materials another teacher will have.

There are a lot of things that have to be outlined in the form itself. I do think it is necessary to have the teacher, special education or whatever, involved in the process.

Mr. BIRCH: Ms. Crawford, what has been your experience with including special education children in physical education programs or other extracurricular activities?

Ms. CRAWFORD: At grade school level they are mainstreamed for not academic subjects but resource subjects. Of course, we are a unique situation. They don't go in unless we absolutely know they will fit into it. Generally, they are mainstreamed in the lunch room and playground situations with many adults, and it has worked and we found 3 years ago we were segregated but now it is just like one of the guys—it works. It is a gradual process.

Mr. TICE: If it is done the way she describes, it probably would.

Ms. CRAWFORD: It should start at the grade school level. I can see tremendous problems when it gets to high school. I am in first, second, and third grades. That is where it should start.

Mr. TICE: There is no adjustment of class size so you tend to have large class sizes in physical education and then when you have 15 out of 40 students who are special education children with different kinds of handicaps, all of it creates safety and other problems that could be resolved if it was done in a rational manner but is not being resolved.

Ms. OLSON: Last year all our children were mainstreamed for art, music, and gym. We found many of the physically handicapped children couldn't really participate fully in the physical education program the way it was, so we instituted a special program for physical education so they ended up participating in both. They went in with the regular third grade plus their own program. That tended to work out very well. Again, it is elementary school children.

Mr. BIRCH: Thank you. I don't have any more questions.

Mr. EDWALL: Thank you very much. I think one of the things we heard today that came through loud and clear from all of you, if we can treat them as individuals and not as categories or blocks or classifications, obviously, that is the way we should be moving.

I think we have heard some very excellent, some very personal testimony today and I want to thank every member on the panel for taking the time to be with us today. I think it has underscored the need and the value of an oversight hearing such as this.

Next we have an individual, Frederick Weintraub, Assistant Executive Director for Governmental Relations, The Council for Exceptional Children. I think you were here when Mr. Simon made the opening remarks that you may proceed in the way you feel most comfortable. Your paper will go in as part of the record. You may summarize or present it any way you see fit.

**STATEMENT OF FREDERICK J. WEINTRAUB, ASSISTANT EXECUTIVE DIRECTOR FOR GOVERNMENTAL RELATIONS, ACCOMPANIED BY JOSEPH BALLARD, ASSISTANT DIRECTOR FOR POLICY IMPLEMENTATION, GOVERNMENT RELATIONS UNIT, THE COUNCIL FOR EXCEPTIONAL CHILDREN, RESTON, VA.**

Mr. WEINTRAUB: Thank you. Accompanying me today is Joseph Ballard, assistant director for policy implementation of the Council for Exceptional Children.

I am Fred Weintraub, assistant executive director for governmental relations of the Council for Exceptional Children.

As you know, the Council for Exceptional Children is a national organization with a membership of approximately 65,000 professionals in the field of special education.

Thank you for this opportunity to once again appear before this panel to discuss Public Law 94-142.

The council has been engaged in an indepth analysis of the testimony submitted thus far in both the House and Senate during these 1979 oversight hearings.

From that testimony, several conclusions, we believe, are unavoidable. First, Public Law 94-142 has been affirmed as fundamentally sound in its basic provisions. However, any law and its regulations needs fine tuning and must consider changes to meet emerging needs.

Second, Public Law 94-142 must be perceived as the "minimum floor" for the Nation.

I think many of the discussions we heard from the previous witnesses suggest that many of the problems that are faced in the implementation of the law are not necessarily problems that are fostered by the law itself but are fostered by the fact that the law itself in a sense is a set of minimums. From that States develop policies that are more expansive. From that local school districts develop additional policies. Within any school building there are additional policies and procedures.

Thus, often what starts as a very simple thought, for example, the IEP, which is only several words in length, in a particular school district may become a 30- or 40-page document and somehow the relationship between that and what the law said becomes difficult to see.

Yet it does not make what is being done illegal. It may be improper, but not illegal, because the Federal Government does not prescribe the sum total of policy and procedure but is only one of the actors in a very complicated system of delivery of services to children.

I think it is also important in this regard that the law comes at a point in history where it is part of a series of laws and policies that have been developed regarding education of the handicapped and is not in a sense something totally new.

State laws concerning education of the handicapped go back more than a century. State policies and procedures have become very elaborate, even prior to 94-142. While we talk about the law as something that just began, in a sense even the Federal law, Public Law 93-380 in 1973, brought many of the changes that we are now talking about and facing today.

It is the combination of all these things, the Federal and local and State policy, and the history of it, that gives us many of the strengths of the law in its implementation but also some of the problems that have been brought before this committee.

We would like to divide our comments into two parts. First, what I would like to call 94-142 specific issues, those things that are addressed by the special content of the law. The second might be described as a discussion of major policy issues with respect to exceptional children and adults which we feel the Congress should address beyond the scope of 94-142.

The first comment would deal with the fiscal promise of 94-142. Very briefly, in the school year now commencing, \$804 million has been recommended by the administration and duly appropriated by the Congress. That figure is well below the authority for the year of approximately \$1.2 billion. As we look toward 1981 and the administration's \$862 million request in relationship to an authorization of



approximately \$2.108 billion, very quickly we are getting to the point where we can march an army between the authorization and the appropriation.

I think the Congress should take credit, however, that in the first years of the law it did stick to the authorization level and 94-142 enjoyed a luxury very few laws have had, it was fully funded. However, we are reaching a point now where the discrepancy between the authorization and the appropriation is reaching a serious level.

Education Turnkey Systems, a research company, which has conducted a study of the implementation of Public Law 94-142, made the following pointed statement in its summary of preliminary findings:

First, compared with recent education legislation, never have so many SEA's and LEA's initiated so many activities with relatively few Federal resources to implement the provisions of a Federal mandate.

In all sites, some initiatives have been undertaken to implement the provisions as quickly as possible in spite of increased time burden and scarce resources.

So I think despite the low level of funding significant change has occurred. The question is to what degree can that continue to occur if the Federal resources don't continue appropriately.

The second issue concerns child count. Much attention has been given lately to the issue of the allegedly low child count of handicapped children served nationwide. (Attachment 2.) Initially, it must be borne in mind that this annual child count is not intended to be a complete census of all handicapped children, but rather a count that is submitted solely for purposes of generating the relative percentage of dollars going to each State and its local school districts under the terms of the Public Law 94-142 fiscal funding formula.

The Council for Exceptional Children, through its State organizations and divisions, has been engaged in an ongoing assessment of the parameters of the annual child count.

Our own survey trends plus those generated by other surveys suggest the following matters for consideration by the Congress:

One, there is evidence of an incidence of children trapped between initial referral for evaluation and the actual evaluation itself. They are not counted because they are not being served. We feel that the Congress will wish to be attentive to the fact that, while the regulations provide a clear timeline between evaluation and implementation of an individualized program for each child, there is no such timeline between referral and evaluation.

So we are finding teachers who are referring for evaluations and the evaluations are not being conducted because once we find out the child is handicapped then the system has no chance to serve them.

Second, the initial estimates of the number of handicapped children nationwide prior to enactment of Public Law 94-142 were estimates within a population aged 0 to 21. But because Public Law 94-142 lacks a complete mandate for that full age range, the actual child count is centered largely in the traditional school age group; namely, aged 6 through 18.

Three, estimates of the number prior to enactment of Public Law 94-142 may well have included disability counts because of the nature

of some State funding formulas. Rather than a count of children, one had a count of disabilities, meaning that a child was counted more than once if two or more disabilities were perceived.

So, for example, if we had a child mentally retarded but who also needed speech therapy, that child was counted as two children. Now that child is only counted as one child.

Fourth, Public Law 94-142 does not permit a cumulative count. Under the act, children may be counted for purposes of the Federal funding formula only on December 1 of each year. A respectable case can be made that a good number of children pass in and out—for instance, speech therapy and programs for mildly handicapped children—of the special instructional environment during the course of a given school year, but that on any given December 1, many of these children are "out."

Fifth, many disabled children participating within the public school systems do not require special education as defined in Public Law 94-142.

I think that is a very important distinction to make 94-142 only relates to handicapped children who require special education. There are children who have handicaps who are disabled who do not require special education, and thus are not counted nor protected by Public Law 94-142 but are covered under the requirements of section 504 of the Vocational Rehabilitation Act.

So to suggest that 94-142 is in a sense a count of all handicapped children in the public schools is incorrect. It is a count of those handicapped children who require special education.

Sixth, many of our most severely handicapped children are counted for purposes of Public Law 89-313, the title I, ESEA program of supplemental educational support for children in State-operated or supported facilities. The law prohibits their inclusion in the Public Law 94-142 count.

Thus, approximately one-quarter of a million handicapped children who are receiving special benefits are not included in the 94-142 child care.

Finally, many handicapped students are being served by other Federal programs, for example, title I of ESEA, bilingual programs, and simply are not perceived as part of the Public Law 94-142 eligible count, whether they are in fact eligible or not, particularly young children, who have special learning needs who are caught up in those programs and served.

We do not see it as a very worthwhile activity to grab those children out of programs that may be benefiting them in order to meet some child count objective.

It is important that the committee see the child count for what it is and what it is not. It is part of a mechanism to determine Federal fiscal allocations to the States and localities. It is not a census of handicapped children. We could do many things to increase the census. We could have multiple counts, cumulative counts and all those things.

However, all that we would succeed in doing would be to drive up the authorization level and instead of having \$2 billion of entitlement, we would have \$5 billion, and unless the Congress is really serious in providing 5 billion dollars' worth of appropriations, it seems to me to

make little sense to change the child care procedures if all it would do is increase the entitlement.

However, we would like to suggest a couple of changes.

One, that we allow the use of funds under the basic program for the special education of children 0 to 21. In other words, the money that is generated can be used to serve children 0 to 21. However, we are only permitted to count children 3 to 21. Very simply, what that does is provide a disincentive to serve children under that if you can't count them if you serve them.

Thus, we would recommend a change in the law to permit counting children in the 0 to 3 age group.

We would also suggest that we allow the use of funds under the program for the full age range.

Under the question of definitions it is important to understand that while we have basic Federal definitions which are broad in the future, each State, through its long history, has had specific definitions of handicapped children and it is those State definitions that apply.

One of the concerns that we have is that a child who is handicapped and is served in State X moves to State Y and may no longer be handicapped and no longer protected under 94-142.

The answer in some quarters may be to end up only with Federal definitions. We do not believe that the state of the art is such at this point that Federal definitions would be a valid exercise nor do we believe if we were to achieve such definitions that it would be productive.

We think, however, that the Federal Government should continue to study the issue, provide better recommendations to the States, provide better information, and, hopefully, move to a point at which we could relook at the whole issue of definitions where we could move to more noncategorical approaches to serving children.

In that regard we would suggest that the Congress relook or ask the U.S. Commissioner of Education to relook at the procedures of the child count.

Under section 618(b)(1)(A), the law requires the Commissioner to report annually to the Congress the number of handicapped children in each State by diagnostic category. For efficiency purposes the Commissioner accomplishes that responsibility by requiring such reporting to occur in conjunction with the child count. Thus, the child count data is submitted to the Office of Education by disability category. That was not the intent of the Congress.

The intent of the Congress was to gather data on numbers of kids served by disability, not to gather the child count by disability. As a result, what has been required by the administration procedure under this is children being labeled, categorized in order to meet the child count requirement.

We most strongly urge the Congress to order a termination of this practice of an annual December 1 count by diagnostic category. We do not feel that a statutory change is necessary. The same section 618 allows for numerous devices, such as the survey, to acquire responsible information, if desired by the Congress.

On private schools, the Congress clearly expressed its desire that children enrolled in private schools enjoy the fiscal benefits of Public Law 94-142.

However, such a bypass provision does not presently apply to 94-142. Some States are constitutionally prohibited from applying Federal funds to private schools. We would suggest that the General Education Provisions Act be amended to allow for a 94-142 bypass as well.

Public Law 94-142 requires that every handicapped child receive the special education and related services that are necessary for that child to reach his full potential.

We heard from the previous witnesses about the in-service training and pre-service training. It is clear that the personnel required to carry out the mandate far exceed the number of personnel available.

In addition to the critical shortage of special education teachers, speech therapists, psychologists, school social workers, audiologists, occupational and physical therapists, and teacher aids, there is a continuing need to expand the knowledge and skills of regular educators.

Thus far, both houses have heard testimony from many people, including parents, advocates, teachers and administrators. Nearly every witness has identified manpower needs as an area of concern. In fact, in some instances personnel needs have been pinpointed as the single most important factor to successful implementation. Many of the issues raised have been—

- The inservice training needs of regular education teachers and auxiliary personnel, both in the areas of educational needs of handicapped children as well as interprofessional working relationships;
- The supply and demand imbalance for special educators and related service personnel (i.e., preservice needs); and
- The lack of adequate Federal resources for both preservice and inservice programs.

The States are required to develop a manpower or person-power development plan. Those plans have indicated a need for an additional 65,000 special education force for last year and 85,000 for this year.

However, the higher education institutions are presently turning out only 20,000 new special educators a year. Other personnel needs include an additional 31,000 teacher aides, 5,000 psychologists, and 3,000 speech pathologists and audiologists.

Additionally, the preservice training needs of American Indians and Alaska Natives wishing to provide special education and related services to American Indian and Alaska Native handicapped children is not solely the responsibility of the Bureau of Indian Affairs.

With the inclusion of the children residing on reservations under the mandate of Public Law 94-142, the U.S. Office of Education was committed to this need. It follows, then, that special education training programs operated under the aegis of EHA, part D, make special consideration of this population.

The supply and demand problems vary depending on demographic variables such as urban/rural. Related service personnel may be more easily attracted to a major urban setting, but a sparsely populated, rural district may have trouble attracting one speech therapist at 1½ times the normal salary. However, the urban areas may demand far more diversified services and personnel. Thus, we encourage a flexible and individualized approach to assessing personnel needs because the personnel needs of Fairfax County may be very different from the personnel needs in Minnesota or a particular district of Minnesota.

We would therefore recommend assuring adequate fiscal and technical assistance to States, localities, and institutions of higher education for the provision of sufficient quality special education personnel; and developing a national special education job bank which would match the supply and demand needs of the special education field. This would require no new authorization, but rather could be developed through the existing EHA, part D, authority.

We are concerned that in the implementation of the law there are handicapped children who are in particular situations where this law is having particular difficulty.

We would suggest that the Office of Education needs to have a clear agenda to deal with minority group handicapped children with problems of a variety of nature, in terms of testing and evaluation clearly need to be addressed in order to improve the situation.

Clearly, target activities must take place in areas of poverty. It is very clear that in urban centers, in isolated rural areas, on Indian reservations where there is not the local revenue to apply to the situation that we have particular problems, and that solutions to those problems must be uniquely developed.

We also would like to call to the attention of the committee that many exceptional children are often denied their basic benefits they would otherwise be entitled to if they were not labeled as exceptional. For example, bilingual exceptional children do not receive bilingual education if they receive special education. Title I programs are denied to handicapped children if they are getting special education.

It is important to understand that handicapped children do not cease being other things that they are if they are handicapped. So a child from a Spanish family who happens to be blind doesn't cease having a Spanish family and needing bilingual education.

We are greatly concerned about the fact that these children are being denied that opportunity despite laws that prohibit such behavior.

Finally, we would bring to your attention the areas where there are no policies and perhaps the committee should take special consideration and in fact perhaps hold target hearings. The implementation of 94-142 has been a continual learning experience for us in terms of understanding where children are. For example, handicapped children in correctional facilities are not getting the special education they need.

There are schools called section 8 schools which are schools that are operated in this country by the Federal Government—for example, at West Point or on military bases or out in the national park system—only to find that those schools operated by the Federal Government did not have to come under compliance with 94-142. And the Office of Education has basically said it won't enforce compliance in its own schools.

It seems kind of silly to have the Federal Government enforce 94-142 in State and local school districts but say it doesn't apply to the schools they run themselves.

We are concerned about migrant children and the lack of application of this law to those children.

I will skip the section on related services. There will be witnesses who will comment on that.

We would like to bring to your attention title I of the ESEA. It is important to understand that handicapped children are counted for



the purposes of generating the title I count and yet what we are finding now is that title I programs are now saying that because these children are covered under 94-142 the money that they generate cannot be used to serve those children.

We think that unless the regulations are changed at the Office of Education that is going to take some legislative change.

The court, in *Armstrong v. Kline*, No. 78-172 (E.D. Pa., filed Mar. 17, 1978), has ruled in favor of plaintiffs seeking an extension to the 180-day school year regulation in the State of Pennsylvania.

The plaintiffs, five handicapped children and their parents, alleged that an appropriate education as required under Public Law 94-142, the Education for All Handicapped Children Act, and section 504 of the Rehabilitation Act, may include educational programming beyond the normal school year.

As a professional advocacy organization, it always has been and always will be the position of CEC that, if a particular child or group of children must have educational programming beyond the traditional school year or otherwise place their educational development in jeopardy, CEC will fight for that extended education as a professional responsibility.

You have heard extensive conversation about the IEP and I will not go into tremendous detail on that I would call your attention on page 18 to a memorandum that we submitted to the U.S. Office of Education asking for clarification respecting the IEP. We still believe very strongly that the IEP is essential to the nature of the law.

The law centers around an individual child, not around the system. It is critical that an IEP be developed in order to link that child's needs to the appropriate placement.

In the memorandum we have tried to lay out what we think are the essentials for Office of Education clarification so that when a teacher is faced with a 20- to 30-page IEP that teacher will know in a sense the distinction between what the Federal Government has required of them and what their local school district has.

I visited a school district not too long ago where the teachers had 20-page IEP's to write. We looked at that IEP trying to find out what was in it that required such massive paperwork. We found out the school district had decided to clean up all their records and rather than hire clerical help to do this what they did was added all those record cleaning-up activities into the IEP and required it of the teachers to do, and when the teachers complained they said don't blame us, blame the Federal Government.

We think, however, that the Federal Government has got to clarify further what the intent and purpose of the IEP is and in doing that it will reduce some of the burdens that are presently being placed upon people inappropriately.

Finally, we would like to address what we think are some policy issues for exceptional persons beyond the immediate pressures of 94-142. It is very clear from the research and from the data that early intervention on handicapped children presents a strong case for special preschool considerations. Persons concerned about handicapped children have long concurred on the critical importance of early developmental programs for such children. It has been stated that as much as 50 percent of all intellectual development occurs prior to age 4.

There is no question in our mind if one important thing could be done it would be to assure that every handicapped child has education at their earliest age. Much progress has been made in that regard.

Yet, even within States the discrepancy from district to district is substantial.

I have a niece in Fairfax County who is blind and multiply handicapped. That child received special education assistance from the day the child came home from the hospital. I can't begin to tell you the difference it has made in that child and that family's life. One only has to think of a blind child to understand the critical importance of early learning.

However, I am sure that if we went 20 or 30 miles south of Fairfax County that same child would not have received those services.

Therefore, we call upon the Congress to do three things. One, is amend the statute by allowing States to count all handicapped children who are receiving an appropriate special education, aged 0 to 21 rather than only those children aged 3 to 21.

Two, amend the preschool incentive statute by providing an allocation of \$300 times the number of children aged 0 to 5 counted as served, rather than the 3 to 5 age group now eligible for the \$200 incentive grant.

Three, amend the statute by providing that a free appropriate public education shall be available to all eligible handicapped children who require special education aged 0 to 5 through a phase-in procedure.

#### GIFTED AND TALENTED EDUCATION

The 95th Congress recognized the pressing special education needs of America's estimated 2.5 to 5 million gifted and talented children when it legislatively moved this program out of the Special Projects Act—title IV, section 404 of Public Law 93-380—to enable it to become a freestanding act under title IX of the Education Amendments of 1978.

Congressional commitment to the gifted and talented was further demonstrated through the increase in the level of authorization it provided for this population—for example, from \$12.5 million in fiscal year 1978 to \$50 million in fiscal year 1982.

In the majority of States, education of gifted and talented children is part of the total special education program and that is increasing in States throughout the country. However, the Federal Government's programs do not fully operate that way although the gifted and talented program is administered under the Bureau of Education for the Handicapped.

First, we would, therefore, strongly urge the members of this committee to actively support the provision of a much larger Federal appropriation for these children in fiscal year 1981 when the authorization level for this act reaches \$35 million.

In this respect, we would hope that such an increase would help to provide the Federal leadership that is so desperately needed in this area.

Our final recommendation is that we have made significant strides in the elementary and secondary education of handicapped children.

We have made strides in the vocational rehabilitation of handicapped persons. However, it is important to understand that handicapped people's need for learning does not end when they complete a secondary education.

Thus, while we talk about lifelong learning increasingly for all people in this country, somehow that has not been addressed legislatively to the needs of handicapped people. We therefore suggest that this committee undertake some clear investigation of adult education, career education, continuing education, manpower programs, and others to see how adequately they address the needs of handicapped people.

In the community in which I live there are extensive courses offered through the continuing education program in, for example, automobile repair. You can take 15 to 20 different courses in automobile repair. However, there is one course offered for the deaf and that is in Volkswagen repair for the deaf under the presumption that deaf people only drive Volkswagens.

I would suggest that deaf people drive other cars as well, and if continuing education is beginning to be provided to society in general, then we have to look at the unique nature of providing that to handicapped children as adults.

In conclusion, we would suggest that we must not let a national commitment to the quality of education slip through our hands in the rush to meet immediate compliance needs.

We observed with some concern as reported in an issue of Education Daily recently that the top training priority of the States for this school year is in the area of procedural safeguards. In the justifiable zeal to comply with Public Law 94-142, we have redirected resources from instruction to the process of special education.

Thus, funds that taught teachers new teaching techniques are now training people to testify at a hearing. State consultants who worried about improving instruction or curriculum are now compliance officers. Federal research efforts to link new technology to improved practice are now evaluating the processes of the system. The issue is not process versus instruction, but rather the need for governmental leadership and resources to attend to both with equal fervor.

Thus, we would suggest that the committee return to many issues it considered years ago, not only the implementation of 94-142 but to take a look at the programs in research, in training—to take a look at not just will we 2 years from now declare Valhalla when we comply with 94-142 but will we be able to say 10 years from now that the quality of education of handicapped children is significantly better.

I think that should be our agenda, not to manipulate the procedures of the law.

I guess in a sense one can conclude by saying there is no change without pains, but I think the important thing to understand is that the education handicapped children are receiving today is better than it was yesterday and, hopefully, will be better tomorrow, and for that we thank the committee for its efforts.

Mr. FRANK. We appreciate the specificity of your comments. Evidently you think this law can be improved in some specific areas where you think legislation is needed.

You also mentioned that we have such a great disparity between school districts in this country. That rings a bell because we now live in Fairfax County, Va. So things vary.

Again, I think the Federal law as it tries to apply to every situation runs into the problems you mentioned, how is it handled on the State level, how is it handled on the county or school district level.

Your entire testimony will go into the record along with the charts or tables.

[The attachments referred to follow:]

P.L. 94-142 AUTHORIZATIONS AND APPROPRIATIONS

Attachment 1

50-103-80-8

\$ (in millions)

\$2,300  
2,200  
2,100  
2,000  
1,900  
1,800  
1,700  
1,600  
1,500  
1,400  
1,300  
1,200  
1,100  
1,000  
900  
800  
700  
600  
500  
400  
300  
200  
100

FY

1978

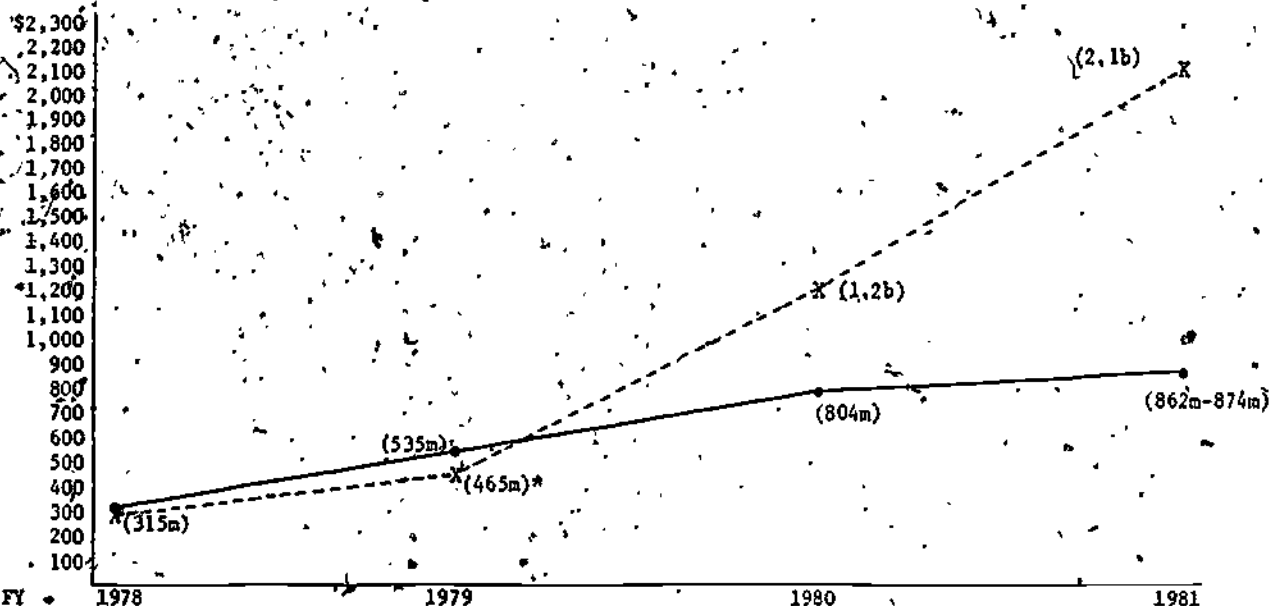
1979

1980

1981

X----- authorization  
●----- appropriation

\*70 million carry-over from FY 78.



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**NUMBER OF HANDICAPPED CHILDREN SERVED AND FISCAL YEAR ALLOCATION UNDER P. L. 94-142, BY STATE**  
**Part B State Grants**

State	Children Served in School Year 1977-78 (Ages 3-21)	Fiscal 1979 Allocation (1978-79 School Year)	Children Served in School Year 1978-79 (Ages 3-21)	Fiscal 1980 Allocation (1979-80 School Year)
<b>NATIONAL TOTAL</b>	<b>3,564,584</b>	<b>\$8,874,732</b>	<b>3,708,716</b>	<b>\$9,600,000</b>
Alabama	58,934	\$ 2,199,597	68,420	\$ 14,629,340
Alaska	7,310	1,141,031	6,996	1,426,568
Arizona	40,477	8,318,480	44,313	9,680,089
Arkansas	30,895	4,821,148	36,508	7,810,823
California	319,024	45,853,306	330,021	70,601,420
Colorado	41,412	6,464,418	43,049	9,210,259
Connecticut	57,888	8,036,317	58,832	12,608,799
Delaware	13,168	1,890,113	11,154	2,384,318
District of Columbia	2,874	668,848	4,158	889,189
Florida	119,066	18,588,203	121,268	25,966,473
Georgia	84,302	13,159,542	95,338	20,375,400
Hawaii	10,121	1,828,638	10,083	2,152,981
Idaho	16,833	7,630,753	16,996	3,636,051
Illinois	215,059	33,570,710	215,879	46,144,147
Indiana	79,080	12,344,388	90,442	19,249,909
Iowa	31,280	8,000,418	36,569	11,896,757
Kansas	32,343	5,220,452	38,806	7,919,608
Kentucky	56,718	8,883,690	60,375	12,917,126
Louisiana	87,000	17,809,568	87,382	18,691,367
Maine	19,818	3,080,560	22,729	4,862,830
Maryland	83,410	13,020,301	84,431	13,041,726
Massachusetts	122,382	18,103,830	126,820	27,127,919
Michigan	142,125	22,785,212	144,546	30,918,947
Minnesota	72,917	11,381,583	77,344	16,875,983
Mississippi	30,984	4,836,602	37,875	8,103,790
Missouri	86,779	13,544,781	98,104	20,481,284
Montana	9,951	1,563,351	13,017	2,571,016
Nebraska	26,858	4,192,534	30,664	6,560,510
Nevada	10,157	1,585,508	10,824	2,772,986
New Hampshire	9,038	1,410,822	9,405	2,013,039
New Jersey	142,121	22,186,086	144,424	30,897,264
New Mexico	16,112	2,515,083	18,804	3,999,549
New York	215,188	33,590,847	189,827	40,613,137
North Carolina	91,436	14,780,986	102,413	21,911,083
North Dakota	8,600	1,283,231	8,282	1,981,588
Ohio	162,918	25,421,188	177,779	36,835,508
Oklahoma	48,220	7,828,703	56,874	11,964,143
Oregon	32,484	5,070,752	37,014	7,919,081
Pennsylvania	168,502	28,303,182	171,009	36,713,448
Rhode Island	13,006	2,044,508	12,454	2,878,460
South Carolina	68,984	10,788,402	68,502	14,555,884
South Dakota	8,418	1,214,050	8,915	1,907,349
Tennessee	94,608	14,768,309	107,287	22,953,887
Texas	268,006	41,831,568	297,578	55,107,938
Utah	35,144	6,488,978	34,187	7,207,831
Vermont	5,410	844,501	5,879	1,113,595
Virginia	78,018	17,178,610	83,841	17,637,836
Washington	43,186	5,518,556	49,040	10,492,022
West Virginia	28,858	4,500,105	30,287	6,481,991
Wisconsin	56,198	8,722,508	67,813	12,368,501
Wyoming	7,448	1,182,324	8,728	1,888,313
American Samoa	208	456,910	240	488,032
Bur. of Indian Affairs	3,998	5,582,918	4,560	7,880,308
Guam	3,730	1,280,829	7,248	1,384,125
Northern Mariana	17	167,523	0	182,807
Puerto Rico	13,907	2,899,084	18,452	3,941,773
Trust Territory	1,242	1,297,586	1,480	1,414,280
Virgin Islands	554	608,142	686	880,874

\*Although Northern Mariana scores separately for a Part B grant, its child count is included with the count for the Trust Territories.  
 Note: Allocations for fiscal 1979 are based on the number of children served in school year 1977-78 and the fiscal 1980 allocation is based on children served in the 1978-79 school year.  
 Figure from the U.S. Office of Education as reported in Education Daily, August 2, 1979.

## NATIONAL SUMMARY

REPORT OF HANDICAPPED CHILDREN RECEIVING SPECIAL EDUCATION AND RELATED SERVICES  
AS REPORTED BY STATE AGENCIES UNDER P.L. 94-142 AND P.L. 89-313  
SCHOOL YEAR 1978-79

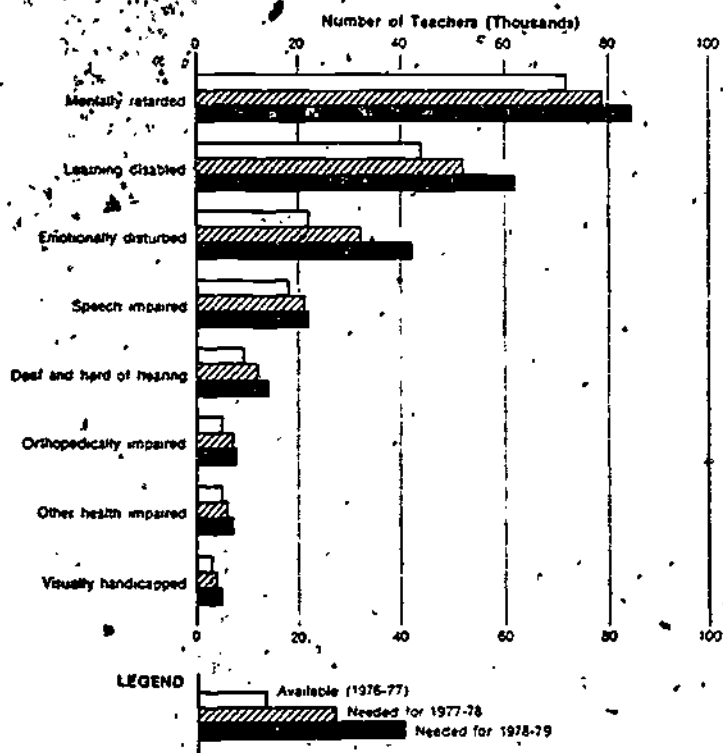
06/15/79

Attachment 3

	P.L. 94-142					P.L. 89-313				COUNT		
	AGES 3-5	AGES 6-17	AGES 18-21	TOTAL	% DWP	STATE	LOCAL	TOTAL	% DWP	TOTAL	% DWP	% DCPU
MENTALLY RETARDED	19,266	728,861	53,314	801,375	1.6	96,171	18,059	114,230	0.22	915,635	1.63	23.2
HARD OF HEARING	3,491	33,428	1,379	38,298	0.07	3,983	509	4,492	0.00	41,811	0.08	1.0
DEAF	2,149	12,508	846	20,503	0.04	2,801	1,083	3,884	0.0	40,401	0.08	1.1
SPEECH IMPAIRED	145,788	1,457,237	7,784	1,610,809	2.41	4,833	1,352	6,185	0.0	1,214,994	2.62	30.0
VISUALLY HANDICAPPED	1,720	20,350	885	22,955	0.4	9,061	550	9,611	0.01	2,576	0.00	.0
EMOTIONALLY DISTURBED	9,733	255,508	7,288	269,529	0.53	20,070	4,859	24,929	0.06	3,1250	.00	7.0
ORTHOPEDICALLY IMPAIRED	7,479	2,771	3,324	13,574	0.12	9,509	1,400	7,900	0.01	71,180	0.1	1.0
OTHER HEALTH IMPAIRED	5,040	93,946	2,800	101,786	0.26	3,391	70	3,461	0.00	106,620	.21	2.0
LEARNING DISABLED	20,400	1,090,136	22,885	1,113,421	2.28	10,531	2,708	13,239	0.07	1,154,430	2.30	29.3
DEAF BLIND	205	1,208	50	1,523	0.00	718	107	825	0.00	2,348	0.00	0.0
MULTI- HANDICAPPED	3,413	32,859	2,100	40,372	0.09	7,920	2,110	10,030	0.02	50,410	0.10	1.2
TOTAL	215,021	3,391,978	102,940	3,710,939	7.41	101,941	33,539	225,480	0.45	3,951,119	7.40	100.0

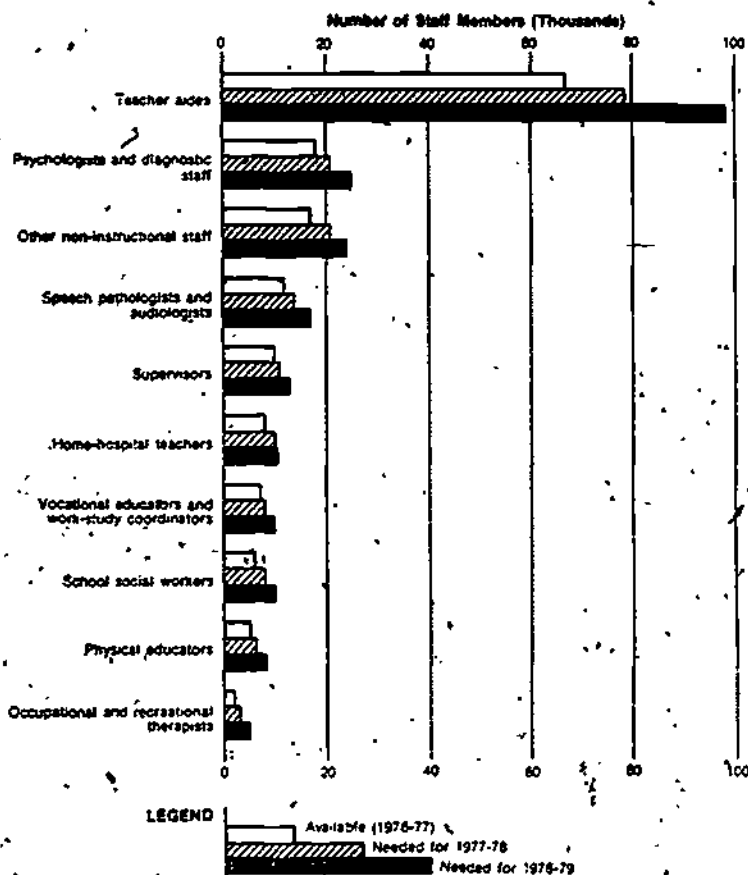
See Appendix D, Table D-3.4

Figure 3.4 Special Education Teachers Available and Needed by Type of Handicapping Condition of Child Served\*



\*Some States combined categories. See Appendix D, Table D-3.4

See Appendix D, Table D-3.5

**Figure 3.5 School Staff Other Than Special Education Teachers Available and Needed\***

\*Some States combined categories. See Appendix D, Table D-3.5.

TABLE D-3.4  
Special Education Teachers' Available and Needed by  
Type of Handicapping Condition of Child Served, School Years 1976-77 to 1978-79

State	Mentally Retarded			Learning Disabled			Speech/Language Disabled		
	Teachers Available 1976-77	Teachers Needed 1976-77	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1976-77	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1976-77	Teachers Needed 1978-79
Alabama	100	40	30	40	100	120	80	110	200
Alaska	0	0	0	21	42	80	0	30	17
Arizona	0	0	0	150	190	437	70	67	17
Arkansas	140	122	172	71	91	107	84	64	70
California	851	720	110	947	895	997	645	629	718
Colorado	326	345	386	130	115	154	84	71	62
Connecticut	—	—	—	256	344	350	111	118	111
Delaware	52	52	52	40	73	65	29	31	44
District of Columbia	70	45	6	30	70	117	21	30	13
Florida	799	757	900	280	320	340	111	375	380
Georgia	400	507	630	327	280	371	110	115	134
Hawaii	—	2	10	32	30	64	15	15	16
Idaho	10	10	100	15	61	61	12	20	25
Illinois	1,638	1,975	1,975	288	1,086	1,019	305	795	705
Indiana	483	1,054	1,054	214	1,818	1,648	13	82	82
Iowa	27	40	67	140	225	275	67	94	118
Kansas	—	—	—	90	100	111	12	30	54
Kentucky	372	386	384	173	91	211	33	88	95
Louisiana	—	—	—	29	117	240	63	148	208
Maine	1	—	—	10	102	177	8	16	12
Maryland	110	241	420	123	143	167	56	61	93
Massachusetts	1,905	2,182	2,213	214	234	239	240	279	299
Michigan	1,370	708	1,427	443	444	448	323	226	230
Minnesota	656	805	728	111	75	118	87	113	139
Mississippi	251	360	784	107	9	214	49	53	108
Missouri	804	881	867	101	214	252	61	88	99
Montana	198	220	267	8	18	22	13	15	17
Nebraska	—	—	2	95	65	95	42	44	46
Nevada	2	—	2	72	4	22	16	—	6
New Hampshire	143	187	201	40	16	52	121	137	151
New Jersey	1,251	1,092	1,086	198	210	211	46	98	98
New Mexico	—	—	—	—	—	—	—	—	—
New York	1,288	1,105	1,229	418	421	464	156	175	204
North Carolina	10	40	100	217	200	475	40	125	140
North Dakota	0	0	0	—	13	14	2	4	1
Ohio	—	—	—	261	286	471	200	216	288
Oklahoma	252	280	279	106	112	120	35	37	42
Oregon	169	214	229	46	56	62	37	39	40
Pennsylvania	—	—	—	542	170	179	102	162	161
Rhode Island	17	37	72	30	101	135	8	22	52
South Carolina	0	0	0	1	0	0	16	16	16
South Dakota	468	565	611	164	188	204	67	89	91
Tennessee	1	1	1	32	35	35	11	11	11
Texas	1,624	1,724	1,824	515	615	729	460	515	610
Utah	0	0	0	5	11	4	8	12	17
Vermont	0	0	0	30	37	37	3	7	7
Virginia	519	576	627	222	278	281	90	96	94
Washington	—	—	—	177	130	123	26	37	38
West Virginia	203	317	345	56	14	14	46	37	4
Wisconsin	930	1,020	1,047	189	206	211	116	162	186
Y. S. (N.Y.)	0	0	0	77	80	81	1	12	1
American Samoa	7	0	0	1	8	1	1	1	2
Guam	1	0	0	1	14	14	0	0	0
Truk Islands	7	15	25	7	21	27	3	5	7
Virgin Islands	6	8	8	1	8	10	2	6	6
Dist. of Columbia	6	48	54	6	27	63	3	10	14
Total	49,380	29,344	22,254	9,187	14,561	15,784	5,341	8,377	7,549



TABLE O-3.4 (Continued)  
Special Education Teachers Available and Needed by  
Type of Handicapping Condition of Child Served, School  
Years 1976-77 to 1978-79

State	Specific Handicapped			Deaf or Hard of Hearing			Orthopedically Impaired		
	Teachers Available 1976-77	Teachers Needed 1976-77	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1976-77	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1976-77	Teachers Needed 1978-79
Alabama	2,475	2,675	3,137	36	123	637	75	476	368
Alaska	111	163	208	276	378	6-2	30	86	111
Arizona	6,026	1,011	1,132	1,093	1,175	1,226	440	467	491
Arkansas	813	823	883	328	371	420	27	42	81
California	3,710	2,258	2,795	2,833	1,351	3,963	3,308	2,111	2,822
Colorado	880	828	833	1,209	1,246	1,294	367	462	461
Connecticut	1,167	1,443	1,699	1,337	1,547	1,757	906	1,014	1,134
Delaware	213	291	304	300	359	370	111	198	206
District of Columbia	273	277	236	132	158	167	212	207	207
Florida	3,181	3,091	3,161	1,509	1,601	1,651	805	1,008	1,271
Georgia	2,219	2,292	3,402	825	1,009	1,026	551	591	611
Hawaii	126	161	192	283	302	308	34	57	40
Idaho	260	276	236	373	367	412	46	38	43
Illinois	6,161	4,613	5,912	3,883	3,754	3,254	3,172	3,168	3,169
Indiana	1,987	3,732	3,252	274	362	382	184	270	370
Iowa	3,224	1,420	1,601	1,636	1,773	1,710	201	436	274
Kansas	789	829	898	358	423	467	229	275	492
Kentucky	1,881	1,734	1,774	825	744	801	165	229	298
Louisiana	823	1,157	1,293	784	101	1,286	229	269	364
Maine	219	182	426	178	273	30	618	150	150
Maryland	1,549	1,763	1,721	1,711	1,890	1,861	371	372	381
Massachusetts	1,609	1,625	1,898	1,005	1,111	1,190	1,096	1,232	1,314
Michigan	3,367	3,310	3,265	1,754	1,511	2,013	1,251	1,440	1,530
Minnesota	1,624	1,720	1,753	1,103	1,540	1,916	280	295	300
Mississippi	1,390	1,321	1,637	772	270	738	6	236	116
Missouri	1,873	3,084	2,151	2,046	2,384	2,471	491	589	637
Montana	246	289	331	442	593	595	45	57	86
Nebraska	228	248	266	241	247	257	126	136	146
Nevada	129	161	171	24	24	24	23	19	19
New Hampshire	161	202	229	61	202	229	172	193	213
New Jersey	2,436	1,543	1,551	1,731	1,214	1,526	850	1,046	1,072
New Mexico	199	1,263	1,515	2,294	3,737	3,332	3,226	3,048	3,140
New York	2,043	2,813	2,813	1,181	508	645	229	439	720
North Carolina	25	200	200	126	137	151	16	21	26
North Dakota	4,020	1,197	1,461	1,736	1,821	2,713	210	290	444
Ohio	889	166	1,954	61	90	1,064	27	37	46
Oklahoma	46	443	462	79	807	845	102	136	149
Oregon	3,107	3,116	3,204	1,387	1,511	1,787	1,080	1,000	1,073
Pennsylvania	500	846	830	31	81	105	30	92	197
Rhode Island	180	220	214	115	247	262	62	117	122
South Carolina	1,029	2,188	2,100	466	640	640	248	307	307
South Dakota	186	272	206	1,129	199	213	75	75	76
Tennessee	1,401	3,000	3,170	1,640	1,700	1,700	395	465	565
Texas	1,554	3,106	3,414	1,818	1,476	2,193	309	538	639
Utah	148	177	197	10	38	18	45	72	118
Vermont	108	134	151	21	85	85	26	43	63
Virginia	1,166	1,713	1,930	1,061	1,190	1,293	254	346	364
Washington	271	1,896	1,827	311	313	343	369	316	364
West Virginia	877	912	1,116	272	126	667	31	81	146
Wisconsin	1,771	1,763	1,813	1,715	1,344	1,544	1,564	1,710	1,710
Wyoming	128	143	149	727	714	714	38	45	99
American Samoa	0	0	0	0	0	0	0	0	0
Guam	44	44	44	44	44	44	44	44	44
Virgin Islands	0	0	0	0	0	0	0	0	0
U.S. of Virgin Islands	46	62	56	12	12	12	12	12	12
Total	71,629	74,484	85,097	13,980	52,274	61,596	21,307	22,928	42,076

## ATTACHMENT 8

TABLE D-3.4 (Continued)  
Special Education Teachers Available and Needed by  
Type of Handicapping Condition of Child Served, School  
Years 1976-77 to 1978-79

State	Other Health Impaired			Visually Handicapped		
	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79
Alabama	61	170	197	6	53	84
Alaska	6	21	55	5	9	17
Arizona	1	1	1	100	106	112
Arkansas	50	90	10	43	45	55
California	441	473	568	406	430	451
Colorado	—	66	73	43	45	48
Connecticut	36	66	96	46	93	117
Delaware	1	2	5	12	10	16
District of Columbia	21	33	34	92	33	18
Florida	200	216	221	108	174	175
Georgia	152	158	175	86	96	114
Hawaii	129	—	—	5	3	10
Idaho	29	32	39	44	53	57
Illinois	—	—	—	189	227	275
Indiana	102	425	425	77	259	268
Iowa	85	97	120	46	67	118
Kansas	26	43	50	40	44	56
Kentucky	153	196	232	44	77	33
Louisiana	127	132	217	56	63	113
Maine	—	12	—	—	24	15
Maryland	28	13	26	52	70	80
Massachusetts	128	450	153	140	169	174
Michigan	55	144	133	136	127	137
Minnesota	126	136	140	42	59	76
Mississippi	—	89	213	22	44	75
Missouri	70	6	4	22	28	46
Montana	1	1	1	1	1	1
Nebraska	6	6	6	32	34	36
Nevada	20	—	23	8	—	6
New Hampshire	131	149	164	70	—	28
New Jersey	343	255	257	113	116	117
New Mexico	—	—	—	—	—	—
New York	1 658	1 522	1 613	358	383	443
North Carolina	44	170	185	63	135	150
North Dakota	0	0	0	2	4	9
Ohio	86	136	169	148	154	198
Oklahoma	0	0	0	30	36	38
Oregon	24	29	34	34	35	35
Pennsylvania	—	—	—	193	314	33
Puerto Rico	21	33	68	7	20	70
Rhode Island	0	0	0	7	—	7
South Carolina	124	172	150	84	111	85
South Dakota	2	2	2	15	17	18
Tennessee	270	290	340	145	165	205
Texas	—	—	—	84	89	129
Utah	54	52	50	1	7	1
Vermont	5	3	5	61	40	61
Virginia	11	4	4	54	65	71
Washington	5	3	5	18	19	19
West Virginia	20	97	105	33	38	62
Wisconsin	34	54	78	80	83	87
Wyoming	4	6	9	3	3	3
Zimbabwe Samoa	1	1	1	1	2	2
Guam	0	0	0	4	4	4
Trinidad and Tobago	5	8	17	2	8	12
Virgin Islands	4	2	4	2	2	6
United States A Total	—	21	36	11	16	36
Total	4 977	5 635	6 098	3 467	4 217	4 746

## ATTACHMENT 9

## NOTES TO TABLE D-8.4

Sources: Tables 2A, B, and C of State annual program plans for fiscal year 1978. A dash generally indicates that the data were not available to the States.

1. Includes regular, special, and itinerant/consulting teachers.  
2. Colorado, Illinois, Pennsylvania and Texas each reported a combined count for teachers of the orthopedically impaired and other health impaired. Mississippi similarly reported a combined count only for available teachers. The counts are shown in the orthopedically impaired column; dashes are placed in the other health impaired column; dashes are placed in the other health impaired column. In Illinois, the count of teachers needed for 1977-78 for the hard of hearing includes audiologists.

3. Washington reported a combined count of teachers for the speech impaired and teachers for the learning disabled. The count is shown in the teachers for the learning disabled column; a dash is placed in the speech-impaired column.

4. Eleven States reported only combined counts of teachers for the speech impaired and speech pathologists. In Florida, Georgia, Illinois, Indiana, Kansas, Missouri, and Tennessee, the counts were reported under teachers of the speech impaired and are displayed in this table. In Connecticut, Louisiana, Ohio, and Pennsylvania, the counts were reported under speech pathologists and are displayed in table D-8.6.

Mr. ERDAHL. Do you have any questions or comments that you would like to make on behalf of our chairman?

Mr. BIRCH: No; I don't. I just want to thank our witness for the recommendations that he has made and his specific comments that can be of use to us as we continue to work on this legislation.

Mr. ERDAHL. I trust that staff and Congress will think diligently on what you have told us today. Thank you very much for being here.

The next panel may come forward. Barbara Jo Adolfs Morse, school social worker, North Springfield center for Emotionally Disturbed Elementary Aged Children, Fairfax County (Virginia) School District; Dr. Jean Ramage, director of school psychology program, San Diego State University; Dr. Alfred Healy, University Hospital School, University of Iowa, and Evelyn Jaffe, occupational therapist, American Occupational Therapy Association.

I think you have all been here as the other people have offered their presentations today. You may proceed in a way that is most comfortable for you, either to read your prepared statement or summarize it as you see fit.

In any event, your entire statement will be made part of the record.  
Ms. Morse.

**STATEMENT OF BARBARA JO ADOLFS MORSE, SCHOOL SOCIAL WORKER, NORTH SPRINGFIELD CENTER FOR EMOTIONALLY DISTURBED ELEMENTARY AGED CHILDREN, FAIRFAX COUNTY, VA., SCHOOL DISTRICT, ON BEHALF OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS**

Ms. MORSE. Thank you. My name is Barbara Jo Adolfs Morse. I am a school social worker in Fairfax County, Virginia.

For the last 3 years I have worked in a high school, an intermediate school and an elementary school serving a culturally and economically diverse population of 4,000 students. In that position I was involved both in the eligibility process and in service delivery for children served under Public Law 94-142, and in the provision of services to the regular school population.

This year I am assigned to a county operated center serving 40 seriously emotionally disturbed elementary age children and their families.

As I say, that I think Fairfax County is definitely a fishbowl for national legislation and I think we are well represented here today.

Today, I am speaking to you on behalf of the 80,000 professional social workers in the United States, and most particularly the 8,000 social workers employed by schools. We recognize that in order to fully implement Public Law 94-142 a cooperation among education, health and mental health systems is needed, but we wish to stress the role of related services as a part of, and funded by, the public schools.

We would like to reaffirm our conviction that Public Law 94-142 provides an opportunity to serve children in an important, meaningful way, and that it should continue to receive full Federal support.

We are not recommending changes in the law. Rather, we feel it needs more time to test out the implementation in the present framework.

As practitioners, we are keenly aware of some of the problems and challenges of implementation of this new law. As I describe these challenges, please keep in mind the Chinese character for the word "crisis." It is composed of two parts: One meaning "danger," the other meaning "opportunity." Even though, at times, school systems have been "in crisis" and encountered many "dangers" in the past year, we have now the "opportunity" to refine the process of service delivery, and to improve both the quantity and quality of services to children.

Some of the issues which have surfaced this year are as follows:

#### 1. PROFESSIONAL STRAIN

Each layer of bureaucracy (Federal, State, and local) has imposed its own set of regulations on the law, resulting in confusing complexity at the local level and, at times, a decrease in services in this initial phase of implementation. The decrease in services is mainly to those students not covered under this law and who remain in the mainstream population.

Oftentimes there has been a decrease in services to those students not covered under the law. This is a great concern to us and ways need to be looked at to continue to provide services to the mainstream population as well as these children.

Also, regulations may need to be streamlined as we go from Federal to local.

One of the key elements of the law is the establishment of the multi-disciplinary diagnostic team to do evaluations for eligibility. The problems encountered here center around school systems adaptation to a democratization of the decisionmaking process in schools. The promise for children is that better, more accurate decisions will be made about their lives.

I would like to say we are just as interested in keeping children out of special education as putting them in. One of the reasons for this law historically is that not only children were not being served but children were also placed, to use a phrase of another witness, by shotgun into programs.

Last year I was involved in a team process which took children out of a high school program for the retarded. This was possible because of the diagnostic team approach to try annual reviews. The school system, not maliciously, I think, had placed these children there because there were small classes, there were not the detailed regulations that influenced who could be placed and who could not be placed. They had been there quite a while.

As we went through the triennial review process mandated, we were able to say, hey, these kids don't belong here.

Somebody was striving to protect these children along the way, give them small classes. They were inappropriately placed and through the team we were able to make appropriate changes and channel them into other programs but in the mainstream.

We fully support the multidisciplinary team process. One of the recommendations would be that systems may need help in training for teamwork. One person may have had more of a say than a team. Multidisciplinary teams can work.

Categorically labeling is a serious issue which is offensive both to parents and to professionals alike. The impact on family members is tremendous when they discover that they have a child who falls into a category and will receive a label. With the increase in services and the growing number of children in programs, the implication of the use of labeling in schools needs to be seriously studied and a noncategorical approach to children may need to be considered in the future.

#### ROLE OF THE SOCIAL WORKER

I would like to briefly describe the role of the social worker in this eligibility and service delivery process. On a regular basis the diagnostic team meets in each school to discuss children who appear to be having difficulty. This team ideally is composed of a school administrator, the classroom teacher or guidance counselor, the learning disabilities resources teacher, the social worker, the psychologist, and hopefully the parents.

An honest and fully participatory discussion of the behavior and concerns which led to the presentation of a child to committee, can often lead to suggestions and alternative routes of service which might be utilized to serve a child.

Let me give you an example. Last year, in November, both teacher and parents were concerned that an elementary grade child wasn't achieving in school. We jointly discovered that the chief dynamic seemed to be that the family had just moved from the Southwestern States into northern Virginia, and the child was grieving the sudden loss of friends, school, and community.

Suggestions were made by the team both to the teacher and the parents on how to deal more effectively with the child. The beauty of Public Law 94-142 is that it provides a formal mechanism for this level of intervention and consultation. It has been our experience that if parents are not fully participants in the process, the result is that a great deal of staff time and money is spent resolving adversarial due process proceedings.

One of the ways we find at the local level that is effective is that the parents join us whether the decision is to go on for a full evaluation or not. If they are part of the decisionmaking process, they join with us in ways that are much more productive. The relationship having been built and the trust having been built, it is a very important part of trying to achieving a good educational program for a child.

When problems presented about a child are not easily resolved as in the case I described, and a decision is made to do a full evaluation on a child, the role of the social worker is to do the sociocultural evalua-



tion, also called the social history. This involves writing a comprehensive document detailing a child's physical, social, and emotional development.

The purpose of the social history is to help guard against the inappropriate labeling of children based on test scores and school performance alone without consideration of cultural and language differences.

The social history can be a dynamic, positive communication process which allows the parents to become important participants in the evaluation. It is a diagnostic instrument which can also be used for establishing a relationship between parents and the school system.

This has been since 1907 when social workers first started in the school system. One of the main roles is the home-school-community coordination, and that continues today.

In the social history process, the social worker facilitates coordination of services between home, school, and community; interprets due process to the parents; elicits the parents' desires for the child; collects necessary data; interprets the data to the eligibility committees; and acts as a consultant to the special education personnel who will regularly work with the child and the family. The social history is a document. It cannot be separated from the casework that accompanies it.

I would also like to add as I talk about the role of the social worker. I see the social worker in this process as part of the team working closely with the school psychologist, the administrator, the education evaluator—not acting alone.

#### IEP

The individualized educational plan is another important instrument designed to enhance the partnership between family and school. All too often, however, it identifies existing services, rather than detailing a child's needs. I think systems want to protect themselves because of the money issues that are involved. I think that there is a growing awareness that we need to write into the IEP what a child needs.

We are concerned that parents are still not fully aware of their rights and the IEP must sometimes serve the system, rather than the child. A true partnership between the school and the family must be based on a humanistic rather than a strictly legalistic process.

Social workers have been serving children in school, as I said, since 1907. In the past, many of their activities were directed toward those children frequently called the socially maladjusted. As social workers have been increasingly called up to meet the needs of children served under Public Law 94-142, our concern is that these "socially maladjusted" children may not get service.

As I think of the last 3 years in the school system, I frequently ran at least three groups for intermediate and high school children, mainstream kids who for one reason or another were in trouble. Last year as we moved more fully into implementation, I ran one. That is an example of the change and emphasis I have had to undergo.

We have in our society a long history of fear and prejudice against the handicapped. Public Law 94-142 is the visible symbol of the silent revolution around the rights of handicapped children. Professional

social workers welcome the opportunity to join with parents, educators, and other related service personnel in implementing the law.

Mr. ERDAHL. Thank you very much. I will go down the line of the participants in the panel and then perhaps we will have some questions a bit later on.

Thank you for that fine statement.

Dr. Jean Ramage, please proceed.

[Prepared statement of Dr. Jean Ramage follows:]

PREPARED STATEMENT OF DR. JEAN C. RAMAGE, EXECUTIVE MANAGER, NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS

Thank you for inviting me to testify before the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, regarding Public Law 94-142, the Education for All Handicapped Children Act. I am Jean Ramage, Executive Manager for Professional Relations of the National Association of School Psychologists. My comments today represent input from school psychologists, who are in nearly all school districts in the United States, and from related professional colleagues, especially those in the National Consortium of Child Mental Health Services (psychiatrists, psychologists, and other mental health specialists) and those attending the meetings of the National Alliance of Pupil Services Organizations (school social workers, school counselors, school nurses, speech and language specialists, and other "related services" personnel in education). I am going to describe three children who illustrate the impact of Public Law 94-142.

The first child is John, who is from a town of about 60,000 in West Virginia. John is a "down syndrome" child who is 8 years old. In many school districts he would be in a program for trainable mentally retarded, learning self care, social and academic skills appropriate for him. Unfortunately, he is in a situation where his academic needs are ignored entirely and where his self care and social skills are learned in no systematic way. When his mother inquired about his rights under Public Law 94-142 the school district representative indicated they would like to have a better program for John, but were providing him the best they could from the limited finances they receive from local, state and federal sources. John's mother was not satisfied since she knew that John under private tutoring had been learning more than he was in school. She took him for an evaluation outside the school district and was told that he was in the top 5 percent of down syndrome children. This means that John probably can learn academically, and may even be able to learn how to read. However, his schooling is not including activities related to academic learning. This case illustrates the point that the impact of Public Law 94-142 will be different to determine until the law is fully implemented with the anticipated financial backing.

Another point is illustrated by Anne, who is 14 years of age and has had severe emotional problems for the last six years. These problems interfere with her schooling. At the present time she is in a class for the "severely emotionally disturbed" in New York City. A number of hours of a number of educational professionals and of Anne's parents have gone into developing the appropriate individualized Educational Program (IEP) for Anne. However, before Anne can profit from the education being offered, she needs intensive assistance in getting along with others. The school was reluctant to put in the IEP that she needed therapy because they know that Public Law 94-142 funds did not provide for this. The schools were also reluctant to indicate that she needed counseling, which is a "related service" under Public Law 94-142 because the related services personnel were too busy doing evaluations for Public Law 94-142. This case is presented to illustrate two of the major concerns about Public Law 94-142 implementation.

The first is that children who cannot profit from schooling until their emotional problems have attention are not likely to get assistance by the schools because school personnel are reluctant to put in the IEP that the child needs these services because at the present they cannot provide the intensive help within the schools and cannot pay for the services outside the schools to the extent needed. Secondly, the agencies outside the schools are cutting off funds because they say that they have no mandate to serve children and youth such as Anne unless she is returning from federally funded institutions, is poor, or is supported under some other federal program.

What is needed is the recognition that "related services" personnel such as school psychologists, school social workers and school counselors, do have the training to assist many of the children with special needs and thus should be written into the IEP more often. It should also be recognized that at times it will be necessary to bring in outside consultation or direct assistance because of the unique problems of the child or adolescent. Thus, it is crucial that interagency agreements be to the benefit of children and youth, and that agencies be mandated to serve children and youth. For example, more assistance could be offered children such as Anne if the new "mental health systems act" bill specified that children and youth are a priority group.

The third child I would like to talk to you about is Pat, who is 10 years old and from San Diego. Pat was doing very poorly in school until special assistance was given through a "learning disability" program. The evaluation information led to an Individualized Educational Program that appears to be just what Pat needed to learn. The impact of Public Law 94-142 has been that this child is receiving the appropriate special education program. The one danger in this case is that the learning disability teacher who is with Pat supposedly for four hours a day is getting more involved in the administrative aspects of the special education program and is finding less and less time for actual instruction with children such as Pat. The point this illustrates is that the major focus of Public Law 94-142 should be on direct service to children and youth, and when this is not happening, then guidance for the professionals is needed to assist them in doing what they are trained to do.

In summary let me say that Public Law 94-142 has led to services to more children with special needs, however the potential gains may be lost if the program is not funded adequately. It is a little like funding enough money for the body of an airplane but not enough for the wings. Besides funding, more time is needed for the local education agencies to gear up for the requirements for Public Law 94-142. In other words at the present time major legislative changes do not appear to be warranted. What is needed is assistance in the form of policy clarification and ideas about successful ways to implement Public Law 94-142.

**STATEMENT OF DR. JEAN C. RAMAGE, DIRECTOR OF SCHOOL PSYCHOLOGY PROGRAM, SAN DIEGO UNIVERSITY AND EXECUTIVE MANAGER FOR PROFESSIONAL RELATIONS, NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS**

Dr. RAMAGE. Mr. Chairman, I would like to add some comments to my official testimony.

Mr. ERDAHL. Please do.

Dr. RAMAGE. I am here as executive manager for professional relations for the National Association of School Psychologists.

I want to indicate that this input that I am trying to share with you today has come from a number of individuals around the country. School psychologists are in nearly all of the school districts in the country and, although I am not representing them there is input from the National Consortium of Child Mental Health Services and also from those attending the National Alliance of Pupil Services Organizations which is made up of school social workers, school psychologists, school nurses, speech and other related services groups.

What I want to share with you first are three case histories that indicate some of the concerns that have been raised. Then I want to indicate some of the suggestions that I have.

This is a story that came to me recently about John who is a Downs syndrome child who is 8 years old. In many school districts he would be in a program for trainable mentally retarded, learning self-care, social and academic skills appropriate for him.

Unfortunately, he is in a situation where his academic needs are ignored entirely and where his self-care and social skills are learned in no systematic way. When his mother inquired about his rights under Public Law 94-142 the school district representative indicated they would like to have a better program for John, but were providing him the best they could from the limited finances they receive from local, State, and Federal sources.

John's mother was not satisfied since she knew that John under private tutoring had been learning more than he was in school. She took him for an evaluation outside the school district and was told that he was in the top five percent of Down's syndrome children. This means that John probably can learn academically, and may even be able to learn how to read.

However, his schooling is not including activities related to academic learning. This case illustrates the point that the impact of Public Law 94-142 will be difficult to determine until the law is fully implemented with the anticipated financial backing.

My point of bringing this up is the school feels it is the resources that are limiting us. I want to underscore what others have said and also offer assistance if I can in terms of getting more people to vote for funding.

Another point is illustrated by Anne, who is 14 years of age and has had severe emotional problems for the last 6 years. These problems interfere with her schooling. At the present time she is in a class for the "severely emotionally disturbed" in New York City.

A number of hours of a number of educational professionals and of Anne's parents have gone into developing the appropriate individualized educational program (IEP) for Anne. However, before Anne can profit from the education being offered, she needs intensive assistance in getting along with others.

The school was reluctant to put in the IEP that she needed therapy because they knew that Public Law 94-142 funds did not provide for this. The schools were also reluctant to indicate that she needed counseling, which is a "related service" under Public Law 94-142 because the related services personnel were too busy doing evaluations for Public Law 94-142.

This underscores what my friend, the social worker, was saying.

This case is presented to illustrate two of the major concerns about Public Law 94-142 implementation.

The first is that children who cannot profit from schooling until their emotional problems have attention are not likely to get assistance by the schools because school personnel are reluctant to put in the IEP that the child needs these services because at the present they cannot provide the intensive help within the schools and cannot pay for the services outside the schools to the extent needed.

Second, the agencies outside the schools are cutting off funds because they say that they have no mandate to serve children and youth such as Anne unless she is returning from federally funded institutions, is poor, or is supported under some other Federal program.

What is needed is the recognition that "related services" personnel such as school psychologists, school social workers, and school coun-



elors, do have the training to assist many of the children with special needs and thus should be written into the IEP more often.

This is very rare at present even though it is allowed in the law.

It should also be recognized that at times it will be necessary to bring in outside consultation or direct assistance because of the unique problems of the child or adolescent. Thus, it is crucial that interagency agreements be to the benefit of children and youth, and that agencies be mandated to serve children and youth. For example, more assistance could be offered children such as Anne if the new "mental health systems act" bill specified that children and youth are a priority group.

The third child I would like to talk to you about is Pat, who is 40 years old and from San Diego. Pat was doing very poorly in school until special assistance was given through a "learning disability" program. The evaluation information led to an individualized educational program that appears to be just what Pat needed to learn.

The impact of Public Law 94-142 has been that this child is receiving the appropriate special education program. The one danger in this case is that the learning disability teacher who is with Pat supposedly for 4 hours a day is getting more involved in the administrative aspects of the special education program and is finding less and less time for actual instruction with children such as Pat.

The point this illustrates is that the major focus of Public Law 94-142 should be on direct service to children and youth, and when this is not happening, then guidance for the professionals is needed to assist them in doing what they are trained to do.

In summary, let me say that Public Law 94-142 has led to more services to more children with special needs, however, the potential gains may be lost if the program is not funded adequately. It is a little like funding enough money for the body of an airplane but not enough for the wings.

Besides funding, more time is needed for the local education agencies to gear up for the requirements for Public Law 94-142. I think when you sit on the national level you think everybody is there and it is certainly not true.

In other words, at the present time major legislative changes do not appear to be warranted. What is needed is assistance in the form of policy clarification and ideas about successful ways to implement Public Law 94-142.

I would like to go a little bit further than that and emphasize some points and go back to some of the others.

Mr. ERDAHL. Please proceed.

Dr. RAMAGE. I mentioned my concern about more funding. I do not think that can be underscored enough. If not funding, then I think there is going to have to be some assistance to States in terms of what are the priority areas that you want carried out first.

Second, I would like to indicate that I am very pleased there are oversight hearings going on in both the House and the Senate, but I think major changes in the legislation at this point would create more havoc than would help. I do not want to leave off some of the changes that need to take place, but there is the need for more time for implementation at the local level.

Along with that, I think it is important to know that I support, at least I hope the Congress does also, the Bureau of Education for the Handicapped along this line, for example, the policy interpretation



activities that Tom Irvin has been carrying out, looking at specific areas, like the IEP, private schools and hopefully to the area of related services.

Second, the change in name to aid to States in the Bureau is an important change. I hope it will be more than monitoring, but that it will be aid to the States.

Third, when the changes in legislation come about, I think there is a need to look at some of the following areas. Some of these have already been mentioned by Fred Weintraub of CEC, but I want to reemphasize some of them.

The method of child count, we have to recognize it is not a census, it is a billing or funding factor and that is what it should be considered. Fred stated a number of reasons why. I would like to see us as professionals find another way of funding other than by head count category because of the potential negative effects. There are examples around, like saying a certain percentage of children will be covered under these funds, by identifying the children, whatever the mechanism is in the State along general guidelines.

One of the concerns, since my colleagues have been more involved with the evaluation, has been that the initial costs of evaluations are never paid for at all unless the child is identified as being in special education.

Now, I agree with my colleague over here that one of our concerns is that we want children who are identified for special needs to be appropriately identified. My experience is, 50 to 60 percent of the kids who are referred are not appropriately referred. Many of those children are minority, or bilingual children and their causes are cultural. They still need special help but not under the rubric of special education.

The use of related services is another area I would like to speak to. That is at present so many of the special services are related services individuals, primarily involved in the evaluation sections, not involved in the program section or the instructional section as it is called in some States. We need more involvement in counseling services for children and parents and need for aid and assistance to teachers, whether in regular or special education. What I am finding is that under the increased demands of 94-142 we really have very much a personnel shortage in our area.

As an aside, personnel funds from the Bureau of Education for the Handicapped have not been forthcoming for people until very recently in some inservice projects. In my area you cannot get funds from the National Institute of Mental Health because you are considered education. So we fall in between the cracks.

I want to talk about some of the concerns I have for the future as related to this. One of them has been mentioned previously but I want to emphasize more strongly, that is the relationship of special education to vocational education and rehabilitation services, the need to make sure that children who need vocational education skills are going to get them—this is not considered a high priority in vocational education at times—also the relationship of special education to legislation services and point out one of the conflicts in the legislation.

Special education focuses on the academic training of individuals, social training also; but rehabilitation focuses on the world of work or

career guidance. We try to work together between rehab and special education, particularly in children ages 16 and over, covered under most legislation. There is a real conflict in the terminology used and a need at the Federal level to look at that area.

The second area of the future I would like us to look at is inter-agency agreements. I am especially concerned about the inter-agency agreements where other agencies such as the mental health institutions say they are no longer responsible, and make sure that children are not cut out but are given higher priority for no other reason than that is a cost-effective procedure to help them get served earlier.

Third, I would like to look at the relationship of 94-142 and the other federally related programs such as title I of the Elementary and Secondary Education Act, bilingual programs. You can carry this into the labor and CETA programs and so on.

One of the concerns I do have is a number of disadvantaged, so-called disadvantaged children, there is a fear to serve them under 94-142 or any special education law. That is particularly true in my own State of California, where we have had a series of cases around serving of minority children. To give you one example, the number of children in classes for the educably retarded dropped from 2 percent down to less than one-half of 1 percent. I still feel those children exist, but they are not being educated.

Fourth, I would like to speak to the issue of personnel preparation. That is, there is a real need for related services personnel to have somewhere in the Federal Government, for priority funding. At this point there is no place especially for school social workers and school psychologists.

A fifth area is one that is the most difficult area perhaps of all, that is, who are the qualified personnel, especially in evaluation procedures? I become distressed at times when we have asked people to do things beyond their competency, especially in the interpretation of standardized instruments and the area of nonbiased assessment, bilingual education or bilingual assessment. We ought to take a close look at that in monitoring the issues.

It has been mentioned the effect of junior and senior high. There is a major difference in trying to implement this law at the junior-senior high and over 18, over-senior high, than there is at the elementary level. It is very difficult to get teachers together if there are six or eight versus if there is one.

Now, the relationship in States to the vocational rehabilitation/vocational education as well as special personnel in departments, that is: How are we going to coordinate our activities for children, particularly high school age or older?

I am concerned that what I am seeing is less services for regular children from what I would call the related services personnel. I think as a preventive activity or as a prevention in terms of children ending up not having to have special services, we need to insure that related services personnel are not just pulled off into diagnostic work and evaluations, but continue to do the counseling, continue to work with teachers of regular children, so that the children's other needs, those with the usual problems, can be served.

I think I would like to end there with saying that I strongly support 94-142 and its intent and am very pleased and want to offer my assistance in working with the House in any way I can.

Mr. ERDAHL. Thank you very much for being with us today.

Next on the panel is Dr. Alfred Healy, University Hospital School, University of Iowa, on behalf of the American Academy of Pediatrics.

Dr. Healy.

**STATEMENT OF DR. ALFRED HEALY, ASSOCIATE PROFESSOR, DEPARTMENT OF PEDIATRICS IN THE COLLEGE OF MEDICINE AND DEPARTMENT OF SPECIAL EDUCATION IN THE COLLEGE OF EDUCATION, UNIVERSITY OF IOWA, ON BEHALF OF THE AMERICAN ACADEMY OF PEDIATRICS**

Dr. HEALY. Thank you, Mr. Erdahl.

Mr. ERDAHL. Glad to have you with us.

Dr. HEALY. Mr. Chairman, I am Alfred Healy, M.D., an associate professor in the College of Medicine and in the College of Education at the University of Iowa, here today representing the Committee on Children and Handicaps of the American Academy of Pediatrics, an organization representing 20,000 pediatricians dedicated to the health and welfare of infants, children and adolescents.

The Education for All Handicapped Children Act is clearly a significant piece of legislation and the academy is strongly committed to the intent of this act. We feel, however, that both ambiguities and oversight in this legislation, as written, cause the academy to have serious concerns. These concerns relate to the need for clarification of the existing regulations so that they are consistent, and the intent of the law. We do not suggest statutory changes.

The Academy's concern can be best summarized in one statement. "Physician involvement with handicapped children under this act is restricted, and in fact, unfortunately, is not encouraged." This law has structured a role for physicians that does not allow them to adequately and appropriately contribute their knowledge and skill to children served by this legislation. In spite of physicians' early and continuing involvement with many handicapped children, in spite of a physician's intimate knowledge of the child's condition and the family's reaction to that condition, this act leaves communication between physicians and the educational system to happenstance.

I would like to emphasize three of the Academy's most serious concerns. The first is the issue of identification.

Prevention of handicapping conditions is the obvious goal of all concerned. If we fail in our prevention activities, it then becomes absolutely critical that we identify handicaps at the earliest possible age. This statement is based on the known fact that early intervention in the lives of handicapped children does produce positive change in their eventual status and, without question, is tremendously supportive to the child's family.

Pediatricians have historically been involved in determining those factors which lead to early identification and have been intimately involved in structuring therapy and other support projects for handi-

capped children when they are identified. This involvement predates 94-142. The application of this knowledge and skill remains a major portion of the pediatrician's role in serving disabled children. Yet this involvement is not recognized in a majority of educationally—designed early identification projects in this country.

As the child grows older, those handicapping conditions of a less severe nature begin to be identified. Many such programs aimed at identifying preschool and school-age children with disabilities are educationally administered and do not include physician input into either the identification or the evaluation phase of the process.

As an example, in a recent survey 39 of 39 in special education contacted stated an educator decides whether a physician should be consulted concerning the medical needs of the child. For instance, if a first-grader with mental retardation is being evaluated by an educationally-directed team, that team, without medically-trained personnel, decides whether neurologic examination is required or whether laboratory testing is needed to determine if the child is anemic.

Even more startling was the fact that in only 12 of the 39 agencies surveyed did a team decide whether a child should be seen by a physician. In the remaining 27, that decision was left to a single team member and in no instance was that member a physician.

A second concern of the Academy relates to State advisory panel membership. As you know, each State must file an annual plan describing the procedures they will use to be compliant with this act. Another Academy-sponsored survey indicated that only 13 of 40 States surveyed indicated physicians as members of those advisory bodies.

Clearly if medical input into identification, evaluation and IEP components are to be effective, then persons knowledgeable of the medical system of care in the respective States must be invited to join in those advisory panels.

The third concern we wish to raise lies with the fact that physicians are not included in the annual personnel surveys required as part of each State's annual plan. In fact, physicians are the only personnel for which annual reporting data are not required. Simply put, if needs are not assessed, then needs cannot be met.

Fortunately, the Bureau of Education for the Handicapped has responded to the Academy's recognition of this process by awarding us a 3-year grant to develop a model curriculum and subsequently to train 5,000 pediatricians and other physicians by 1982. The change in the existing regulations to require that all States include physicians in annual personnel reports would appear to be consistent with BEH's recognition of the need for manpower training in this area.

In closing, I wish to stress that the American Academy of Pediatrics supports this legislation and stands ready to use all of its resources through its 56 chapters in the United States to further the optimal identification, evaluation, and educational planning for all handicapped children in this country.

I would further add that the Academy certainly supports an interdisciplinary approach to the identification and evaluation of all children and supports many other concepts presented to you by the witnesses this morning. The education of all handicapped children is not the domain of any single discipline and the physicians of this country



stand ready to join with them in an interdisciplinary effort to provide the needed information required for effective programing and planning for any child under this law.

We thank you, Mr. Erdahl, for allowing us to share our concerns with this committee today.

[Prepared statement of Dr. Alfred Healy follows:]

**PREPARED STATEMENT OF DR. ALFRED HEALY, ASSOCIATE PROFESSOR, DEPARTMENT OF PEDIATRICS IN THE COLLEGE OF MEDICINE AND DEPARTMENT OF SPECIAL EDUCATION IN THE COLLEGE OF EDUCATION, UNIVERSITY OF IOWA, ON BEHALF OF THE AMERICAN ACADEMY OF PEDIATRICS**

Mr. Chairman, I am Alfred Healy, M.D., an associate professor in the Department of Pediatrics in the College of Medicine and the Department of Special Education in the College of Education at the University of Iowa, here today representing the American Academy of Pediatrics.

The American Academy of Pediatrics is an international association of 20,000 pediatricians dedicated to the health and welfare of infants, children and adolescents. The Academy has a deep and long-standing commitment to the issues affecting our nation's handicapped children. Since its establishment in 1957, the Academy's Committee on Children with Handicaps has undertaken a variety of efforts to improve the conditions affecting those children. In 1968, the Committee initiated a project to explore all appropriate means to develop a significant partnership between pediatrics and special education in the early identification of various handicaps and has continued to pursue this effort. The Academy testified in support of this legislation in 1977 and we are pleased to again have this opportunity today.

The Education for All Handicapped Children Act, Public Law 94-142, is clearly one of the most significant pieces of legislation designed to address the educational needs and rights of handicapped children. Since its implementation, commendable progress has been made toward providing a "free and appropriate public education for all handicapped children." The Academy is strongly committed to the intent of this legislation and believes its potential for success is great.

It is also to be expected, however, that a program which endeavors to make such significant changes will often create new problems as well as crystallize our perception of the old. Such is the case with Public Law 94-142. Consequently, the Academy believes the shortcomings of this legislation are procedural in nature and do not require amendments. Rather, the Academy recommends that critical ambiguities in the law be clarified so as to assure greater cooperation and coordination between the professional disciplines serving the handicapped child.

The most serious problem we have encountered to date is that this law has structured a role for physicians that does not allow them to adequately and appropriately contribute their knowledge and skill to children served by this legislation. Consequently, physicians are not participating in the implementation of this law to a level commensurate with their abilities and training, or commensurate with the demand for their skills and training. To correct this problem, we offer several recommendations.

First, the Academy strongly believes that an interdisciplinary effort is critical to the success of this and other programs to ameliorate the conditions which affect handicapped children. Education if the handicapped child is clearly no longer the exclusive domain of any one profession. The accurate identification, evaluation and management of programs to meet the complex needs of these children demand a collaborative effort from a number of disciplines. We believe that health and education cannot be separated when considering the handicapped child and that physicians (especially primary care physicians) have significant contributions to offer as members of these interdisciplinary teams. Physicians have a uniquely early access to children, and they often have the first opportunity to detect real and potential problems. This is particularly important in view of the Public Law 94-142 mandate to identify all handicapped children at progressively younger ages. The primary care physician is also more likely to provide continuity of care for a family than any other professional. Consequently, these physicians will usually have gained a more intimate knowledge and established an ongoing relationship with the family and are called upon to advise about the effects on the child. These factors can greatly assist in the planning and implementation of educational programs.



We are also concerned with specific areas of the implementing regulations and wish to share these concerns with you.

### I. IDENTIFICATION

The Academy believes that a sound and accurate Identification Program is critical to the success of this legislation. We are most concerned, however, that a significant number of eligible children are not being identified due to gaps and inconsistencies in present identification systems.

Shortcomings in these programs are particularly disturbing since there are operational medical and educational programs that identify infants or children as high risk for later developmental disabilities. The factors indicating that risk are best recognized by physicians who have provided ongoing health supervision through prenatal and postnatal care. Yet many screening programs have been instituted to detect developmental problems without any consultation with the physician providing the child's ongoing medical care.

There is ample evidence that infants under age 3 with severe disabilities can be identified quite early. Many of these infants have been followed for medical problems or as high-risk babies as a result of care in premature nurseries and newborn intensive care units. We recommend that the follow-up of these children by the medical profession should be clearly linked to whatever identification programs are provided under Public Law 94-142 through the educational system.

### II. EARLY INTERVENTION

There is little argument that the fundamental and long-range solution to the problems of handicapping conditions is to prevent them in the first place. Thus, the Academy considers it essential that greater emphasis be placed on early intervention programs that begin to apply known rehabilitative techniques to correct disabilities.

Infants who are blind and deaf, visually impaired, multiple handicapped, moderately or severely retarded, orthopedically impaired, severely emotionally disturbed (such as the autistic child) or suffering from other health impairments all profit from intervention programs when started early. Such intervention techniques and programs are preventive in that they minimize and attenuate the handicapping conditions of developmental abnormalities. As such, these programs are the most cost-effective means of avoiding institutionalization and more complex systems of care.

We recommend that the age limits covered under Public Law 94-142 eventually be extended to birth. At present, it is optional whether a state provides services to children under 5. Although we appreciate the motivation underlying this provision—to recognize variances in state school age requirements—we know that the earliest intervention can be the most beneficial. And while the economic implications of such a recommendation may seem overwhelming, the costs to society over the long run will be less. Systematically reaching handicapped children during the pre-school years provides options which may no longer exist at ages when children usually enter the educational system. Clearly, the earlier the intervention, the greater the long range benefit to the child and the family.

We would caution, however, that to extend the age mandate to birth for educationally directed programs without providing for the appropriate interaction of the medical field would be a disservice to all handicapped children.

### III. EVALUATION

Another critical issue is the evaluation process whereby the handicapped child's needs and services are determined. It should be obvious that the child's health needs should be given extensive consideration. However, an Academy review of state regulations determining the extent of physician participation in the evaluation process concluded that "the actual frequency with which a physician's examination is utilized as part of the evaluation process for special education is not consistent with Public Law 94-142 policy which includes health as a recommended part of assessment." The study discovered that only 35% of the states required a recommended medical evaluation be part of the evaluation process for all children suspected of needing special education.

The Academy recognizes that not all children with handicaps will have health needs different from the general population; however, many of these children, especially those with sensory and developmental deficits, demonstrate clear

medical implications. Furthermore, those handicaps which involve behavioral or learning problems on occasion have some link to the child's health status and may have been ameliorated if given medical attention.

If one accepts the fact that a significant number of the conditions and diseases causing developmental disabilities have medical and health-related causes and that many handicapping conditions are correctly associated with ongoing major medical conditions, then one must rely on medically trained personnel to accurately define the nature of these handicaps.

Arguments have been cited that evaluative procedures are too costly and a physician's time too restricted to allow for a medical evaluation to be provided each child being considered for special education services. What has not been considered are the advantages, in terms of time and cost, of developing an intermediate method or procedure to be administered by the physician which would provide more educationally relevant information than a screening process, yet would be less extensive than a comprehensive medical evaluation. Such a procedure would be of use in evaluating those children who do not present readily identifiable medical conditions and/or whose behavioral and learning problems respond well to accepted educational practices.

For example, take the case of a child with cerebral palsy with paralysis of all four extremities, a language delay and an articulation problem. In this case the value of the primary care physician in educational planning can be demonstrated in many ways. The physician may learn that jaundice during the newborn period was the cause of the child's cerebral palsy. With this historical perspective, he knows that when jaundice is the cause of brain damage many children in addition have impaired auditory nerves which results in a high-frequency hearing loss. With this knowledge, the physician will immediately refer the youngster to an audiologist. Furthermore, the physician may realize the child with cerebral palsy frequently has an associated nearsightedness. If this has not been checked previously, he would request an ophthalmologic exam. The primary care physician also knows that this youngster is susceptible to developing contractions of the joints if not given appropriate preventive physical therapy. Therefore, referral to a physical therapist would probably be made. In addition, a physician may realize that a careful evaluation by a physiatrist may result in certain orthotic aids which will allow the youngster to write more clearly, transfer from wheelchair to school seat or if necessary to toilet seat. Lastly, the primary care physician may note that the child is having subcritical seizures (lapse of consciousness that may not be evident to the casual observer). An electroencephalogram will confirm this and appropriate medication may then be prescribed. There are many similar examples that can be cited. While many children with learning problems may have no physical defects, frequently a medically treatable cause of learning disabilities is uncovered with a careful health exam. For example:

A slow-learning child may prove to have a thyroid malfunction which could be treated adequately with thyroid medication.

A slow-learning child may have his problem secondary to anemia or parasitic infestation, or

A slow learner may have his problem secondary to lead toxic.

Therefore, we recommend that all children involved in special education programs under this legislation have an evaluation accomplished by a physician who is knowledgeable of the child's past medical and developmental history, including a physical examination and appropriate laboratory testing to determine medical conditions that may be causing, or at least influencing, the child's enrollment in special education programs.

#### IV. INDIVIDUAL EDUCATIONAL PLAN (IEP)

The Academy considers it essential that a physician be consulted prior to writing the IEP for each child. The degree of that involvement and the personnel presence of the physician at the IEP conference should be determined by the needs of the child. Primary care physicians should be responsible for determining what other medical consultations are necessary as they are most knowledgeable of the medical needs of the disabled child. It seems inconceivable that the primary care physician who has followed a handicapped child since birth, who has prescribed physical and occupational therapy, who has recommended speech therapy, who has provided the child's parents their major guidance during the early years of a child's rehabilitative course, should be effectively denied the

opportunity to continue that relationship once the child enters the educational process. We are acutely aware of the value of medical input if it is utilized as an integral component of the IEP process. Although the law does not prohibit physicians' involvement in this regard, neither does it encourage his or her participation. The Academy believes that the medical treatment of a specific handicap is essential to the educational success of a given child. One specific example of this need involves a child who was born prematurely and who lacked adequate amounts of oxygen during the birth process. This oxygen deficit could cause an injury to the brain resulting in cerebral palsy, a condition that interferes with smooth coordination of the arms and legs. The physicians who cared for this child during the newborn period would be aware of the potential damage and carefully monitor the child's development during the first year of life. Prescriptions for braces, splints and special chairs and devices are all often provided by the primary physicians or medical specialists to whom the child would be referred. Visual and hearing deficits are potential problems and would be carefully evaluated. Orthopedic surgery, if required, would need to be coordinated with the educational program of the child. If walking is impaired, wheel chairs and braces are additional concerns and would need to be prescribed in addition to necessary physical and occupational therapy guidance for their use in the classroom setting.

Additionally, the physician would possess information concerning the child's seizure problems, if they existed, and would be knowledgeable regarding side effects of medication used for convulsions. Teachers and physicians can develop effective mechanisms to share this information regarding expected reactions and the child's actual reactions in the classroom setting.

It would appear that the preceding information would be invaluable to the educational team in planning an IEP for this child, yet the majority of such IEP's are currently generated without any attempt to secure such information, let alone any structured method to use that information even if it is supplied by physicians.

The omission of the physician as an essential participant in regulating the development and implementation of the IEP has led to discontinuity of care and has created communications problems between schools and physicians. Parents are often forced to seek independent medical advice, evaluation and treatment because the IEP did not reflect medical input. Additionally, if pediatricians, physicians and other professions are to work together to improve the opportunities for handicapped children, mandating inclusion of medical participation in the IEP planning process, while advising parents of what they can expect and how they may go about requesting services for their children, is necessary. Such measures could also result in a decrease in the number of requests for appeals and/or independent evaluations.

We realize that, although preferable, a primary care physician may not always be able to participate directly in the IEP process due to financial and time constraints. However, each child having an IEP developed for their personalized care and instructional program should be represented at a minimum by a statement from the primary physician that all medically related factors have been investigated and that no medically remediable condition exists. The Academy's Committee on Children with Handicaps is currently drafting an evaluation form that will be appropriate to the needs of both the medical and educational professions and facilitate communication between these groups.

#### V. STATE AGENCY ADVISORY PANEL

Although we realize that the states are responsible for the composition of their own State Agency Advisory Panel, we strongly urge that physicians be included as members of these panels. A recent survey indicates there are presently only 13 physicians serving on these panels or in this capacity.

We believe that medical input at this policy level will encourage greater physician participation in P.L. 94-142 activity, as it has been demonstrated that medically related screening, evaluation and treatment procedures devised on a state-by-state basis are capable of being cost effectively interwoven into the individual state's educationally related processes. Physicians long have been discouraged by identification programs without supporting remediation projects

and by duplication of identification endeavors by educational and social agencies when the child's problem is already well known by his or her personal physician.

We strongly recommend that physicians be invited to serve on such panels to assist the State Educational Agency in formulating plans that include the existing medical projects and to stimulate provision of those proven successful in other states.

#### VI. IN-SERVICE TRAINING SURVEYS

A final recommendation is that the physicians and all related service personnel should be included in the annual in-service training surveys mandated by Public Law 94-142. We believe that this will be a critical first-step toward building a better-informed and coordinated network of personnel to implement Public Law 94-142, and the Academy has demonstrated its willingness to assist in this process.

One of the first steps the Academy took in devising a training curriculum for physicians was to identify their in-service training needs. In so doing, we discovered that physicians have not been included as part of the annual surveys.

Since passage of this law, the Academy has taken a variety of measures to encourage physicians' involvement with Public Law 94-142. More than ever we recognize the need for pediatricians to be trained in the specifics of the educational system and have recently launched a joint effort with the Bureau of Education for the Handicapped (BEH) to develop extensive training programs for pediatricians and other physicians in the diagnosis and care of handicapped children. By the end of this three-year project, we expect to have trained over 5,000 physicians. We are most enthusiastic about this program and believe that BEH should be commended and encouraged to continue such initiatives. We further believe that such programs will eventually facilitate the participation of all necessary related service personnel. At least three other training programs, initiated by physicians, which are also fully or partially funded by BEH, are directed toward providing physicians in training and practice with the necessary knowledge and skills to provide optimal care to children with handicaps.

In summary, we thank you for giving the American Academy of Pediatrics the opportunity to present our concerns regarding Public Law 94-142. The Academy strongly supports the concept of this legislation, but we respectfully reiterate our viewpoint that physician participation in this law must be encouraged through regulations to allow physicians to bring the full impact of their training and abilities to bear on the handicapped child by fostering cooperation between the medical and educational systems. Failure to achieve this cooperation will lead to discontinuity of care, duplication of service and failure to identify the child at the earliest possible moment when the potential for remediation is greatest.

This cooperation can be further strengthened through the recognition that many handicapped children have medically related, diagnostic and health concerns that contribute to their educational disability and that physician involvement in the remediation of such disabilities will be of assistance to those concerned with the child's educational program.

Mr. ERDEAL. Thank you so much for being with us today.

Next we have Evelyn Jaffe, occupational therapist, American Occupational Therapy Association.

[Prepared statement of Ms. Jaffe follows:]

#### PREPARED STATEMENT OF EVELYN JAFFE, OCCUPATIONAL THERAPY CONSULTANT, MARIN COUNTY PUBLIC SCHOOLS, ON BEHALF OF THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION

My name is Evelyn Jaffe. I am a Developmental Testing Consultant in the Tamalpais Union School District, Marin County, California, Public Schools, and a Program Consultant of the Redwood High Infant Care/Parent Development Center. I am also currently a member of the Executive Board of the American Occupational Therapy Association (AOTA). I am here today representing the AOTA and its 27,000 members.

The American Occupational Therapy Association is pleased to submit testimony to the Subcommittee on Select Education of the Committee on Education



and Labor as the Committee continues oversight hearings on Public Law 94-142, The Education for All Handicapped Children Act.

For over sixty years this Association has represented health professionals who specialize in increasing the independent functioning and productivity of persons of all ages who suffer from developmental disabilities and emotional disorders, or who are disabled by physical injury or disease.

Since the passage of Public Law 94-142, the services provided by occupational therapists in the school system have more than doubled. The school-based occupational therapist has become a valuable member of the educational team who provides screening, evaluation, and direct therapy for students, and serves as a consultant to parents, teachers, and school administrators.

Today's occupational therapists utilize their training in the psychological and biological sciences to bring about positive changes in the handicapped child's growth and development and provide a strong foundation for the educational process. The occupational therapist's role is supportive of and complementary to other health professionals and educators who provide services to handicapped children. As members of educational management teams, occupational therapists have five primary roles in coordinating services within educational systems. The roles are:

I. Evaluating/screening students with a variety of health care problems to identify the need for an occupational therapy intervention program;

II. Participating in educational program planning for individual students to coordinate occupational therapy goals and program plans with total educational programs;

III. Implementing appropriate intervention programs to facilitate optimum functioning and enhance a student's ability to learn and develop;

IV. Managing/supervising school-based occupational therapy programs, and

V. Consulting with school personnel and parents regarding services provided by occupational therapy.

Our Association fully supports Public Law 94-142, the most significant law ever passed to ensure equal opportunity to a meaningful education for all handicapped children. We believe, moreover, that the basic legislation is sound and contains no serious deficiencies. At the implementation stage, however, we have encountered certain problems in connection with the provision of related services—problems which we believe prevent full achievement of the legislative goals. Specifically, these problems relate to interagency agreements, enforcement procedures, certification requirements, and in-service training.

#### INTERAGENCY AGREEMENTS

The identification of handicapped children and the provision of appropriate special education and related services in the least restrictive environment is the major thrust of Public Law 94-142. We have been informed by occupational therapists working in school settings and by the parents of handicapped children that in many areas timely identification and subsequent delivery of related services is not occurring. Several federal programs, such as Head Start, Crippled Children Services, and programs under the Rehabilitation Act, are designed to provide children with related services such as occupational therapy. If properly coordinated, these programs could effectively serve many of the children covered under Public Law 94-142. A statutory or regulatory mandate for interagency agreements at the state and local level would constitute a significant first step towards development of this much needed coordination. The Bureau of Education for the Handicapped (BEH) has identified that such agreements are necessary for maximum coordination and utilization of services, and the AOTA commends BEH for the example it has set in entering into a number of interagency agreements at the federal level. This example, however, has not been replicated on a widespread basis at the state and local level. Moreover, in many instances where state and local educational agencies have entered into agreements with other agencies, these agreements tend to be only on paper and are not realized in the actual delivery of services to children.

Our Association believes a major reason for poor implementation of such agreements is the lack of specific terms which commit the sharing of dollars, facilities, and materials. Legislative authority exists for a continuum of services for handicapped persons from birth to adulthood. Although in theory the services are available, they are frequently never received because of the agency maze which a person must negotiate to receive them. This is especially true for children



served under Public Law 94-142. If primary responsibility for services under this Act shall continue to reside in educational agencies, then assistance must be provided to ensure proper coordination with the resources of other programs. If agencies are to work in a cooperative manner, each overseeing the child while under their services, the federal government must provide regulations and guidelines to assist these agencies in the interface process. At this time the Association recommends that cooperative agreements, including provisions for the sharing of funds, be mandated at the state and local level through either congressional or regulatory action.

#### ENFORCEMENT PROCEDURES UNDER PUBLIC LAW 94-142

Included in Public Law 94-142 are two important enforcement procedures to assure that handicapped children receive appropriate related services. They are the Individual Educational Plan, IEP and the Due Process procedures. An important key to the appropriate use of these mandated procedures is the parents of handicapped children and their understanding of the law, its regulations, and their own state education laws. This is a major undertaking for any parent, and according to responses we have received from occupational therapists throughout the country, school systems are doing very little to facilitate this understanding.

The occupational therapist is often in a position to assist parents in learning their rights under the law, but as an employee of the Local Educational Agency (LEA), as is often the case, the therapist is in a very vulnerable position. The therapist can advise the parents as to their rights specified by federal law and regulation, but are reluctant to answer specific questions about the IEP and Due Process. Their reluctance to do so is associated with fear of repercussion from the LEA. For instance, it has often been reported to us that when an occupational therapist evaluates a child and believes occupational therapy treatment is indicated, there is substantial pressure from the school administrator not to recommend that occupational therapy become part of the child's IEP, although there may be reasons for this pressure such as the lack of sufficient funds to purchase the service or of qualified personnel to provide the service or the absence of physical space to expand therapy programs.

A result of this practice is that occupational therapists are often used only to meet the mandate of the law for screening children rather than one-to-one treatment or consultation. The role of the occupational therapist in screening children is usually to determine which children need occupational therapy services. Although screening may allow the school district to comply with the law, the inability to write occupational therapy services into the IEP circumvents the intent of the law.

The Association therefore recommends that:

1. Regulatory language put greater emphasis on the school's responsibility to work with parents in a cooperative manner to best serve the child under Public Law 94-142.
2. BEH provide regulatory language emphasizing that all related service evaluations be given appropriate consideration and explanation at the IEP, meeting, and that parents be given full opportunity to understand these evaluations.

#### VARIETY OF STATE CERTIFICATION REQUIREMENTS FOR SCHOOL-BASED OCCUPATIONAL THERAPY PERSONNEL

The AOTA has maintained for over thirty years the only national certification system for occupational therapists. Certified occupational therapists have completed a four-year baccalaureate program or a two-year post baccalaureate certificate or master's program, have undergone six months of supervised clinical experience, and have passed a national certification examination. Licensure laws for occupational therapists have been enacted in thirteen states, the District of Columbia, and Puerto Rico. All of these laws incorporate the same education, clinical experience, and examination requirements as contained in the AOTA certification system.

This national standardization in the requirements for an occupational therapist is frequently not recognized by state educational agencies responsible for Public Law 94-142. On the contrary, diversity rather than uniformity is more the rule of the day. In addition to the AOTA certification requirements mentioned above, therapists are required to have two to nine education credits or

a degree in special education or to have completed written tests in subjects such as reading and math. One state insists on a supervised clinical experience of three months in a school setting. Another requires completion of a course related to Public Law 94-142.

Our Association believes that some educational or clinical experience specifically designed to prepare therapists to work in school settings would be a beneficial addition to the occupational therapist preparation process. We would be more than willing to work with agency personnel to develop such a requirement. In fact, with support from BEH, the first stage of a project delineating the roles and functions of occupational therapists in school systems has been completed, and this information is now being used in the development of an educational program for therapists who intend to enter the educational system.

The Association's main interest in this regard, however, is the national recognition and application of the requirements which are developed. We believe this national uniformity is important for many reasons, not least of which relates to manpower supply. State agency plans for 1978-79 reflected a 50 percent increase in demand for occupational therapists. Moreover, in a questionnaire sent to State Educational Agencies, out of 42 responses, 25 cited "lack of available therapists" as a reason for not having sufficient occupational therapists in their school systems. The diversity of certification requirements for occupational therapists in educational systems only adds to this manpower problem. It limits the movement of therapists from state to state. I also discourage occupational therapy students from pursuing any specific educational courses or clinical experience since they cannot be certain that they will be applicable in the state in which they eventually work.

The Association, therefore, recommends that occupational therapists be certified presently as occupational therapists in the school system, rather than as teachers or special education personnel. We anticipate additional certification requirements for occupational therapists to emerge from an AOTA grant funded by BEH. These requirements will be related specifically to the actual role and function of occupational therapists in the school system. We further recommend that in the future such additional certification requirements be mandated on a national level.

#### IN-SERVICE TRAINING

The lack of school-based in-service training for related service personnel has been a frequent complaint from our membership. The federal regulations for Public Law 94-142 indicate a mandate to assess the needs of the school system personnel and provide appropriate in-service training.

In a survey of State Educational Agencies, eleven states out of 42 responses commented that occupational therapists needed additional information about the educational system and how to work effectively in the educational model. A survey of occupational therapists indicates the same felt needs. It is, then, curious why the State Educational Agencies have not provided this type of in-service training to the health-related professional to assist in meeting the "in-service training" requirements of Public Law 94-142.

The Association recommends that BEH continue to support federally funded continuing education programs for occupational therapists as in the past. We also recommend that states be given guidelines as to how they might meet the needs of the school-based therapist through state in-service programs.

The Association appreciates this opportunity to present to you today. Public Law 94-142 is still a relatively new law with problems to overcome, and we believe the oversight process is most important in light of the potential positive results in emphasizing the intent of Public Law 94-142.

#### STATEMENT OF EVELYN JAFFE, OCCUPATIONAL THERAPY CONSULTANT, MARIN COUNTY (CALIF.) PUBLIC SCHOOLS, ON BEHALF OF THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION

Ms. JAFFE. Although last on the panel, I would like to say the occupational therapists are far from least in the educational team related to 94-142.

I am pleased to be here today to represent the 27,000 professional members of the American Occupational Therapy Association, and on behalf of the association and the executive board, of which I am currently a member, I would like to present testimony today regarding Public Law 94-142.

Many of the comments of my colleagues today reinforce the feeling that 94-142 is an important, extremely important piece of legislation. It has its problems.

Since the passage of 94-142, the services provided by the occupational therapists in the school systems have more than doubled. As a valuable member of the educational team, the occupational therapist provides five major roles and I would not review all the written testimony here today. I would like to have that included in the record.

I would just like to state these roles: that of evaluation and screening, participating in the educational program planning, implementing appropriate intervention programs, managing and supervising school-based occupational therapy programs, and consulting with school personnel and parents.

Our association fully supports Public Law 94-142, the most significant law ever passed to insure equal opportunity to a meaningful education for all handicapped children. We believe, moreover, that the basic legislation is sound. However, as Dr. Healey has stated, and many others, at the implementation stage we have encountered several problems, problems which we believe prevent full achievement of the legislative goals.

Specifically, I would like to mention the problems that the American Occupational Therapy Association has identified as related to occupational therapists working in the school system. These problems relate to interagency agreements, enforcement procedures, school certification requirements and in-service training. You have heard many of the colleagues mention similar concerns about the law.

In regard to interagency agreements, the identification of handicapped children and the provision of appropriate special education and related services in the least restrictive environment is the major thrust of Public Law 94-142. However, we have been informed by many occupational therapists working in school settings and by parents of handicapped children that in many areas timely identification and subsequent delivery of related services is not occurring. You have heard this time and again this morning, where school systems are perhaps reluctant to even do the necessary outreach and early identification because of the fear that they will end up having to provide services.

However, there are several Federal and local programs, such as Head Start, crippled children's services, community mental health services, and programs under the Rehabilitation Act which are designed to provide children with related services such as occupational therapy. If properly coordinated, these programs could effectively serve many of the children mandated under 94-142. And what we would recommend is that a regulatory mandate for interagency agreements at the State and local level would constitute a significant first step toward the development of this much-needed coordination.

The Bureau of Education for the Handicapped has identified that such agreements are necessary for maximum coordination and utilization of services, and the American Occupational Therapy Association commends BEH for the example it set in entering into a number of interagency agreements at the Federal level.

This example, however, has not been replicated on a widespread basis at the State and local level. Moreover, in many instances where State and local educational agencies have entered into agreements with other agencies, these agreements tend to be only on paper and are not realized in the actual delivery of services to children.

Our association believes that a major reason for poor implementation of such agreement is the lack of specific terms which commit the sharing of dollars, facilities, and materials. Legislative authority exists for continuing services, for handicapped services from birth to adulthood; and as Dr. Healy and Mr. Weintraub have mentioned, those services really do not fill that complete continuum. They start at age 5 and perhaps go to 18.

I would strongly support the comments today that services be provided from birth to age 21. Although in theory the services are available, they are frequently never received because of the agency maze which a person must negotiate to receive them. This is especially true for children served under Public Law 94-142.

If the primary responsibility for services under this act shall continue to reside in educational agencies, then assistance must be provided to insure proper coordination with the resources of other programs. If agencies are to work in a cooperative manner, each overseeing the child while under their services, the Federal Government must provide regulations and guidelines to assist these agencies in the interface process.

In my own personal experiences, I guess I have had an opportunity to be involved in perhaps the best and perhaps the most difficult of interagency interface relationships. I have been involved with children for over 20 years as an occupational therapist and for the past 10 years a consultant in public schools.

At one point in time, 14 years prior to the enactment of 94-142, we had a child that I was dealing with, an autistic child, mainstreamed—that was not a word used then—put in a kindergarten program with other children, actually in the same kindergarten program my daughter was in. Fortunately, we had the opportunity to develop an interagency agreement, if you will, that provided the teacher in the kindergarten with an understanding of what it is like to have an autistic child in the classroom and with the opportunity to talk to the children themselves. How would they feel about what it is like to have Julie with them? She might be a little different; she might not play the same way.

In the same situation, in the same location, I had an opportunity to be involved in an interagency agreement through the community mental health agency and the public schools, and was involved as a member of a school consultation team that went directly into the schools and did program, staff and administrative consultation with the school system. This strengthened and fostered the relationship between these agencies, and, as I understand—I am no longer in that area—that agreement continues to this day.



At the present time I am a developmental testing consultant and program consultant to infant care program, child development center, in a high school for teenage parents. We have encountered many of the problems that my colleagues mentioned today in terms of one agency jealously guarding the territorial turf, not being willing to coordinate and integrate services which prevent duplication of services and result in a cost-effective program.

The mental health agency believe that the program is a fine one, it has received accolades as far as concept, but the program has not received support—but it is an educational problem. It is out of a high school.

On the other hand, the school board feels that the preventive health measures that have been incorporated in our program should not be a part of a school program. These belong in some other agency.

I would like to reinforce the statement that our association recommends that cooperative agreements include provisions for the sharing of funds be mandated at the State and local level through either congressional or regulatory action, with specific guidelines for interagency contracts clearly defined and monitored by such hearings as these.

Included in Public Law 94-142 are two important enforcement procedures to insure that handicapped children receive appropriate related services. You have all heard about the IEP this morning and the due process procedures. It has been mentioned that a very important part of IEP is the inclusion of the parent. We have had quite a bit of response from occupational therapists across the country that the school systems are doing very little to facilitate the understanding with the parent and not involving the parent in the development of an IEP.

Often the occupational therapists have found themselves in the position to assist the parents in learning their rights under the law but as an employee of the local educational agency they have been in a very vulnerable position and have been reluctant to do anything about it. They feel their job would be on the line.

We have had frequent reports that when a therapist evaluates a child and believes occupational therapy service is indicated, there is substantial pressure from school administrators recommending that occupational therapy become a part of the child's IEP.

We recognize certain practical problems cause this pressure: namely, lack of sufficient funds to purchase the service, lack of qualified personnel to provide the service, or the absence of physical space to expand the therapy programs.

Again you have heard the problem mentioned of outreach or early identification. In many cases the schools have been extremely reluctant to allow any member of the related services team to do any kind of outreach into the community that would cause early identification and require an early intervention program.

Although screening may allow the school district to comply with the letter of the law, the inability to follow through with treatment plans which can often have the occupational therapist involved in writing the IEP circumvents the intent of the law.

Therefore, the American Occupational Therapy Association recommends, that (1), regulatory language put greater emphasis on the schools' responsibility to work with parents in a cooperative manner to best serve the child and (2), that BEH provide regulatory language



emphasizing that all related service evaluations be given appropriate consideration and explanation of the IEP and that parents be given full opportunity to understand these evaluations.

We would strongly recommend that providers of the related services play a more active role in the development of the IEP for each child.

Another problem that has been identified by our association is the variety of State certification requirements for school-based occupational therapists. For over 30 years the American Occupational Therapy Association has had the only national therapy association for occupational therapists. Certified occupational therapists have completed a 4-year baccalaureate program or a 2-year postbaccalaureate program and have undergone at least 6 months of supervised experience and then have passed the national certification examination.

This national standardization and the requirements for an occupational therapist unfortunately are not always recognized by State educational agencies responsible for Public Law 94-142.

In addition to the American Occupational Therapy Certification Requirement some States school systems require occupational therapists to have additional education credits completely unrelated to their skills as occupational therapists.

Our association believes that some educator or clinical experience specifically designed to prepare occupational therapists is essential. We would be more than willing to work with agency personnel to develop such a requirement and, in fact, as Dr. Healy has mentioned, regarding BEH support of pediatricians, the American Occupational Therapy Association also has a grant from BEH and the first stage of a project delineating the roles and functioning of education occupational therapists in the school systems has been completed.

This information is now being used in the development of an educational program for therapists who intend to enter the school systems. Our association's main interest in this regard, however, is the national recognition and application of the requirements which are developed. We believe this national uniformity is important for many reasons, not the least of which relates to the manpower problem mentioned by many of my colleagues today.

These additional requirements exacerbate the already existing manpower shortage for occupational therapists. It limits the movement of therapists from one State to another. Our association, therefore, recommends that occupational therapists be certified presently as occupational therapists in the school system rather than as teachers or special education personnel.

We anticipate additional certification requirements for occupational therapists to emerge from the grants funded by BEH, and these requirements will be specifically related to the actual role and function of occupational therapists in the school system.

We further recommend that in the future such additional certification requirement be mandated on a national level.

Lastly, the problem of inservice training which the teachers today have stressed, and I can fully understand, is not limited to teachers or pediatricians or school personnel of any kind. All the related service people who are not working with school systems would require inservice training.

As Public Law 94-142 indicates, there is a mandate to assess the needs of the school system personnel and provide appropriate inservice training. This apparently is not yet being done in all States.

Our Association recommends that BEH continue to support federally funded continuing education programs for occupational therapists as in the past and we also recommend that States be given guidelines as to how they might meet the needs of the school-based therapists through State inservice programs.

Our Association appreciates the opportunity to present this testimony to you today and I would just like to state that we believe that 94-142 is still a relatively new law, with a number of problems to overcome. We believe the oversight process is most important in the light of the potential positive results in emphasizing the intent of the law and as has been stated many times today, we need to develop a system that meets the needs of the child rather than requesting that the child meet the needs of our system.

As Dr. Smith stated in testimony to the Senate—the State superintendent for education from Louisiana—"We have two alternatives that we either pay now and pay the going rate, or we pay later and pay with interest."

Mr. ERDAHL. Thank you very much. Again, I want to thank the entire panel. We have some good testimony from professionals in the various fields on things that this committee and the Congress are well advised to listen carefully to.

Do you have any questions or observations?

Mr. BRACH. I have a few questions, if I might. I would address this to the panel as a whole and ask whoever wishes to respond, to please do so.

I wonder how the role of various professionals has changed in working with handicapped children since the enactment of Public Law 94-142.

Dr. RAMAGE. I can respond to that.

One of the common complaints that I have from school psychologists around the country is they are not involved anymore; all they are doing is evaluations. That greatly concerns me. They are not working with regular education in some States such as Michigan because their funding is all coming from 94-142 and they are not doing other services.

On the other hand, in my State, California, the law has broadened and they work more extensively with children, especially with handicapped, so you are getting both things.

Dr. HEALY. In the field of medicine I would respond by saying that we have traditionally for many years been involved in the evaluation and identification of such children and looked with anticipation to the enactment of 94-142 as a method whereby effective utilization of that information could be made.

Now the field of medicine is quite frustrated in not seeing the effect of communication channels exist whereby that information can be systematically put into the educational system to assist that child.

Mr. JARRE. I reinforce Dr. Healy's statement. In our program for infants of school age parents we have asked time and time again to have pediatric consultation on a regular basis. Although we have a pediatrician who is somewhere in the program, I have been there for

5 years and I have never seen him, we have not yet been able to have the pediatrician in the school system.

We have a school health nurse but a pediatrician belongs in the hospital and not in the schools.

In terms of occupational therapy personnel in schools, it has grown considerably as a result of the mandate. However, the problems that I alluded to in having occupational therapists mandated into the school systems without having the opportunity to follow through and provide actual treatment has been a very serious problem.

Ms. MORSE. I think I would duplicate what some of my colleagues have said. Much of our time is spent in evaluation if we are assigned to the regular public schools and we have less time to provide prevention services or remedial services for kids in the regular mainstream.

On the other hand, many school systems are now providing more intensive services for children who are in the lower incidence programs such as seriously physically handicapped, emotionally disturbed, perhaps learning disabled, self-contained programs, so there has been a twofold change in our services for children in the mainstream: more evaluations but more intensive services for children in the lower incidence programs.

Mr. BIRCH. Has the source of payments for your services changed since the enactment of 94-142? In other words, are your services still being paid by those agencies to which you would be traditionally attached or are your agencies refusing to pay for those services because these children are in a so-called 94-142 program?

Dr. RAMAGE. A member of the State Department of Education School Psychological Services is now incorporated underneath pupils services whereby before they were the other way around or they were coequals. That has been changed.

What I have noticed on the local level is that schools that used to fund programs—counselors and social workers and psychologists who were involved—are now saying, no, we can only do it if we get 94-142 funds and only if those activities are especially related to special education.

Dr. HEALY. I think this is another example of the ambiguity of the implementation regulations concerning payment and the responsibility under 94-142 for who is to pay. It was clearly, as I understand it, not the intent of this legislation for this act to pick up all the medical costs of the evaluation and care of children with disabling conditions.

However, at the implementation phase, at the actual payment level there is considerable confusion as to who is responsible. Insurance companies, other third-party carriers, other federally funded programs, title IX and title XX, title V, all have concern as to the need for very clear language stating who is responsible for the medical evaluation and ongoing care of a child with a handicapping condition.

Mr. BIRCH. Dr. Healy, I have a question for you in particular. We heard testimony at our first hearing 2 weeks ago and again today about the importance of preschool programs for handicapped youngsters. In fact, there have been several recommendations for lowering the age in the law to birth.

What do you think can be done to encourage the involvement of pediatricians with handicapped children at a very young age so we can make these preschool programs more beneficial?

Dr. HEALY. I think there would be basically two things that could be approached. The first would be a recognition and the clear communication to physicians that their input is needed, wanted and will be utilized by the educational system because they feel at the present time that they possess considerable information that would be of value to the people who are planning the educational program for the child.

Second, to continue the type of effort that was first explored with BEH in terms of physician training. The curriculum that we are working with under BEH sponsorship is both to increase the clinical skill of the physician as well as to work with him and her to better understand the educational processing system so that it is not just an effort to provide the physician with greater clinical schooling and in evaluating a child but to also provide him with mechanisms to get that information into the educational system in a meaningful way.

Mr. BIRCH. Thank you.

Mr. ERDAHL. I think we have had expressed here, and properly so, the value of a team approach of looking at things. The other thing that your question also brought out, it is important not only to have a good diagnosis—that is basic—but it is also vital to follow it up with treatment. I think we sense in some areas that is being neglected. Whether the person might be the social worker, the physician, the psychologist or somebody working in occupational therapy, you might get this diagnosis but not too much after that even in a very fine system like Fairfax County.

Ms. MORSE. We have increased the social work staff to about 70 at this point and, by and large, even though the role of social workers was before this to provide these related services to the students, that has just largely been curtailed because of the evaluation, both initial and triennial needs. Each of my colleagues tries to use the evaluation process as a point of intervention but there is no way to really follow through frequently. I regret this.

Mr. ERDAHL. Our first panel, especially the two individuals from the teacher organizations, seemed to stress we have a need to really modify the law with amendments. I think the impression I got here is let's give it some time we probably need some better rules and regulations to properly implement it.

Is that a proper interpretation? Heads are nodding but that doesn't get into the record.

Dr. HEALY. The American Academy of Pediatrics would support that statement.

Dr. RABAGE. I would support that also. I would encourage you to start looking down the lines so that information can be gathered so when the law is up for specific review we base it on data and direct information.

Ms. JAFFE. I would also support that on behalf of the American Occupational Therapy Association and I believe funding and financial matters have played an important part in the discussion today.

I think if we can really look closely at our interagency agreements, we can perhaps coordinate our efforts, not duplicate services and reduce the costs of some of the programs still providing the services required under the mandate of the law.

Ms. MORSE. I think the National Association of Social Workers would definitely support continuation of 94-142. I would like to add, also, one of the pieces of research that was cited today was a study

that said even with minimal or with a great deal of Federal support, many activities have been generated at the local and State level more so than with other programs.

I think it is going to be important for school systems to look at how they can assume some of the responsibility for that which they look to the Federal for now. I think given the political process there will be, and there is, pressure for us to look at the funding process, and school systems have and should continue to assume whatever responsibility they can for serving children.

Ms. JAFFE. I would like to respond to that. I wholeheartedly agree with you. I think that many of the local school systems are afraid of what happens when they have to pick up the tab, and I can cite this as a personal example in this program I mentioned regarding an infant program for teenage parents.

We proposed a grant that would expand the program and provide comprehensive services countywide which would reduce the costs and reduce duplication. However, the local school board is afraid that if we go ahead and do this outreach, identify children with need, in the end when the grant runs out they are going to end up having to pick up the tab.

As you all know—I come from California—also Proposition 13 has scared everybody and for the school systems to then have to think in terms of funding services, unless we do something to help them, this is going to be a major problem.

Dr. HEALY. Mr. Erdahl, I would like to make the comment that I think it is exceedingly important that we recognize the value of the previous testimony regarding the teachers and their associations concerning their care of the child and the overwhelming burden that is placed on them in certain circumstances and in certain school districts.

However, I would be remiss if I did not point out to you that if proper identification and proper interdisciplinary support through the related services were available to those teachers, then they may not find their burden so overwhelming and there is a considerable value to the input from the disciplines represented at this table this morning.

Mr. ERDAHL. Thank you very much. I know that Chairman Simon would have me express on his behalf and also on mine, thanks for your very excellent testimony. It has been most helpful. The light is on. That means we have to go to the floor of the House and hopefully before this week is over, pick the proper priorities in this area as well.

The meeting stands adjourned.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]



# OVERSIGHT OF PUBLIC LAW 94-142—THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

## Part I

THURSDAY, OCTOBER 11, 1979

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SELECT EDUCATION,  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, D.C.

The subcommittee met at 9:40 a.m. in room 2261, Rayburn House Office Building, Hon. Paul Simon (chairman of the subcommittee) presiding.

Members present: Representatives Simon, Stack, Coleman, and Erdahl.

Staff present: Judith Wagner, staff director; Thomas Birch, counsel; Sylvia Corbin, executive secretary; Terri Sneider, minority legislative associate; and John Dean, minority legislative associate.

Mr. SIMON. The oversight hearings on Public Law 94-142 will continue.

First of all, if I may apologize to the first panel and the other witnesses, we are in the process of conference committees with the Senate right now on the budget. I happen to be on the Budget Committee, so at 10 o'clock I am going to have to yield the gavel to my colleague from Florida to attend that conference committee.

Our first panel is composed of Marjorie Lee of the Special Education Parents Alliance of Lombard, Ill.; Martha Ziegler of the Federation of Children with Special Needs, from Boston, Mass.; Marge Goldberg, Parent Advocacy Coalition for Educational Rights, Minneapolis, Minn.; and Col. Don F. Rettberg, from Bergstrom Air Force Base in Texas.

We would like all four of you, if you will, to take chairs here. Colonel Rettberg, you have an advocate here, my distinguished colleague from Texas, Congressman Pickle. I would like to recognize Congressman Pickle first for a moment.

Mr. PICKLE. Mr. Chairman, I thank you for allowing me to present one of the panelists. It is indeed a privilege to be here and testify before you, one of the ablest Members of the House.

One of the panelists is Colonel Rettberg from Bergstrom Air Force Base, which is in Austin, Tex. He has a son who suffers from Downs syndrome. He is here to testify this morning, asking that Public Law 94-142 would lower the reference ages from 3 to zero in years.

Let me just say simply that Colonel Rettberg has been to our office here and in Austin many times over the past 1½ years as one of those who has been personally touched by this, he has a concern; and he translates his concerns into action by appearing before committees on

the local, State, and national level. He is dedicated to try to get some relief in this particular area. I know that he will offer good, valuable testimony, and that the public will be served.

I thank you for letting me present this man because it warms my heart to see a man who does something about a problem he thinks should be corrected.

Mr. SIMON. Colonel, you could not have a better introduction than from someone as highly respected as our colleague from Texas.

Colonel RETTBERG. I appreciate that, Mr. Chairman.

Mr. PICKLE. Thank you.

Mr. SIMON. I am going to take the liberty of calling—though she lives 400 miles from my district—the witness from my State of Illinois first, if I may. Mrs. Lee?

#### STATEMENT OF MARJORIE LEE, SPECIAL EDUCATION PARENTS ALLIANCE, LOMBARD, ILL.

Ms. LEE. My name is Marjorie Lee and my home is in Lombard, Ill.

As parents of an 18-year-old son born with Downs syndrome, my husband and I have been deeply involved in developing and understanding of special education since December 1960, the time of Kevin's birth.

I am here to speak for many parents as well as for myself. I notice, I was introduced as a member of the Special Education Parents Alliance, which is one of my heads. As a board member of the Illinois Alliance for Exceptional Children and Adults, my knowledge of many types of handicapping conditions and their related educational needs has grown, because our membership is a cross-section of disabilities, plus participation by interested educators and administrators. As a board member of the National Association for Downs Syndrome, my awareness of people with Downs syndrome covers all age levels and their wide range of academic and social development.

To me, Public Law 94-142 means that the world has begun to catch up with our family's goal of community involvement for our mentally handicapped son. From the time of his birth, we have encouraged his participation as a normal part of our family, our neighborhood, our church, and our total community. Strangely enough, perhaps the most difficult area in which to gain access to interaction with normal people has been in the educational sphere.

But a new day has dawned and children like Kevin can now attend classes in regular school buildings rather than in segregated centers out in the cornfields. They can ride a regular schoolbus rather than one transporting only the special education students. They can have programs geared to their individual needs, to build on strengths and repair weaknesses. Their parents can share in the development of their academic programs. The youngsters can rub elbows in the school setting with normal peers and feel that glow of self-esteem that comes with acceptance.

To parents like us who have lived through special education in earlier years, this is Utopia perhaps. But has our dream really come true, or do we still have need to work out some of the nuts and bolts situations to make sure that this "free, appropriate, public education"

of all handicapped children will be implemented as thoroughly as it should be in all parts of the country?

Before listing some specific areas that need attention, I do want to emphasize, and emphasize very strongly, that I see Public Law 94-142 as a marvelous vehicle for educational progress. Coupled with section 504 it has provided for the swing of the pendulum to bring persons with handicaps back into the mainstream of life where they belong.

As you all know, some of the jewels provided in 94-142 include: Least restrictive environment; individualized education programs; parent participation; vocational education; public education from ages 3 to 18 and later up to 21; procedural safeguards including impartial due process procedures, and on and on.

Perhaps it is not apparent to you as legislators and to the administrators at the Federal level, but obtaining the full benefits of all these cherished items for a handicapped child is not easy for an ordinary parent.

For example, the term "least restrictive environment" has too many definitions. Each person sees it according to his own philosophy of special education.

As parents, we saw this term—or concept—as an entry for our son into a regular school building, hopefully in his own neighborhood. Almost 2 years of negotiations revolving around the due process procedure were required before we were able to obtain this.

In addition to the expensive procedures paid for by educational funds, there is the more important factor of time lost by the student being held in a program disputed as inappropriate for him.

There are relatively few parents who are willing to stay and fight. Many parents feel that they will not permit their child to lose ground educationally while they fight the system.

We happen to be crusaders, and we recognized that our son's case could perhaps set a precedent for other students like him. Hard work, good luck, patience, and a thick hide to accept the negativism expressed about our son were necessary in this long procedure.

Having studied the law carefully, we found it surprising to see the amount of resistance to the placement of one student in a regular school setting; surprising to see that the educators would not consider perhaps moving an entire class of similar students to a regular school because it has been succeeding elsewhere; surprising to hear an administrator say "for this student a segregated center is the least restrictive environment."

He was speaking of a young man with excellent social graces, mobility in the community, and successful activities in integrated church and park district activities.

The option of attending a regular school should have been his right, rather than a disputed decision following a lengthy legalistic procedure.

But, enough of our personal case, and I will go on to more general things.

I am interested in inservice training. I would not attempt to discuss with you the specific coverage of the law on this, but would like to emphasize its importance as seen by parents.

Regular teachers certainly must be prepared to accept students with handicaps into their classrooms successfully. Never must the principle

of integration be abused by placing special education students into situations unless proper attitudes, instructional programs, and supportive services for successful integration are in place.

Ideally, regular students may have a naturally developing acceptance of the handicapped if children attend school together. However, perhaps some structured guidance may be needed to help regular students understand those who are different.

Parents of special education students also need special assistance to help them overcome their overprotective attitudes that may inhibit the development of their children as part of the normal educational setting and ultimately the total normal community. Obviously, I am in favor of least restrictive environment.

In vocational education, are realistic programs of training being provided to prepare special students for community employment rather than a lifetime in a sheltered workshop?

Should new positions be created such as community trainer and community placement supervisor to develop employer contacts and supervise students in job situations?

Is there supportive service for the handicapped student who has found employment independently?

If vocational programs are offered to regular students, are these courses open to handicapped students—or are comparable vocational programs, geared to their needs, offered to them?

Although I recognize that 94-142 currently covers the ages of 3 to 18, I am looking ahead to September 1980 when the upper limit will be 21 years of age.

How will we deal with the student from ages 18 to 21? The law provides for elementary and secondary education. If the special education student attends a program in a regular high school it is not appropriate to keep him there until he reaches the age of 21. There should be available to him the option to continue into a junior college setting for special classes or to an adult continuing education program while still covered by public education.

In Illinois, where special education is currently available up to age 21, the acceptance of a high school diploma marks the end of special education coverage, regardless of the student's age.

The joys of a graduation ceremony and a diploma should not be denied to him, but he should have access to educational programs until the age of 21.

To backtrack to the younger age groups, I am also concerned for the newborn child identified as having Downs syndrome or other recognizable special problems. With preschool coverage beginning at age 3—and optional at that age—only private programs are available, mostly funded by parents' payment of tuition. There are variations. I understand.

Many studies indicate that early intervention, soon after birth, is extremely important to the future development of the child. Should birth to 3 be an age group covered by 94-142?

And what about admission policies for preschool programs? It is tragic to note that due process procedures have occurred already for 3-year-olds. The law reads that special classes, separate schooling, and so forth, occur only if the severity of a problem requires it. But we are seeing little tots arbitrarily assigned to segregated schools.

without individual consideration just because they are identified as having Downs syndrome.

As a mother of six children, and as a taxpayer, I too am aware that dollars begin to be questioned when special education moneys are being spent. I do believe that our special education dollars should be spent wisely.

However, a final thought to leave with you today is that I am firmly convinced that the cost of educating a handicapped child will contribute to his long-range future in such a way as to reduce the amount of public money that might be spent on him as an adult if his degree of independence and productivity can be improved through education. Special studies in Oregon and Illinois indicate that even a severely handicapped with good instructional design can earn so-called nontrivial wages and not have to rely on a welfare situation.

I go on with one more thought. My husband has often commented on my habit of always getting just one more "last word"—it is a trait, I guess.

The word this time is that the presence of retarded children sharing the news this past week with Pope John Paul II has been a source of inspiration to me. Perhaps you have seen the news photo of a small child reaching up to touch the Pope during his stay in Ireland. The youngster bore the facial features and even the short little fingers so typical of Downs syndrome. Just by chance last Thursday I turned on my TV to see a bit of the Pope's visit to Iowa. At that very moment Joe Hays, the man who invited the Pope to Iowa, had walked onto the altar with his family. John Paul II reached out to shake hands first with Paul, the 16-year-old retarded son of the Hays family.

The message I see here, perhaps, is that it would be great if handicapped youngsters became so much a part of our normal community that almost everyone would feel as comfortable in greeting handicapped people as Pope John Paul II does.

I thank you for letting me testify today.

Mr. SIMON. Thank you. If it is all right with my colleagues, we will proceed with all of the witnesses and then have questions.

Mrs. Ziegler?

[Material submitted by Ms. Lee follows:]

ADDITIONAL THOUGHTS OF MARJORIE LEE, SPECIAL EDUCATION PARENTS ALLIANCE,  
LOMBARD, ILL.

1. Schools are "stingy" on Parents' Rights.
2. Schools are observing the law, but only to minimal degree in many ways e.g., Speech services are provided, but not necessarily the best in quantity or quality.
3. Vocational education is not being written into IEP's.
4. Recent action, I understand, relieves local districts of the 50/50 sharing commitment on vocational education. This is a step backward.
5. Inter-agency or inter-departmental implications: (a) Are DMH and other agencies relying too much on educational responsibility since 94-112 has come into being? (b) Though adult employment is not a 94-112 responsibility, are there adequate plans for job planning to assure alternatives to sheltered work centers? (c) Gearing toward all adult human services is important.
6. How should minimal competency testing relate to the special education student? Some may be deprived of diplomas if they cannot pass the same test used for normal students—especially true for LD students.
7. Communication between parents and educators is essential. In addition to inservice for parents and teachers, development of parent coalitions should be encouraged.



In Illinois a statewide coalition of parents of all handicaps and professionals has been so successful it is regarded as a source of parent input to educational agencies and educational projects. It is even serving as the planning group for Governor's workshops on parent involvement in the schools intended for parents of all students, regular and special education.

8. Least restrictive environment concept is receiving only lip-service in some areas.

(a) Segregated centers are continuing to be built. Beautiful new buildings are no substitute for integration.

(b) Trainable centers are serving students from 3 to 21. It is inappropriate for toddlers and adults to be attending programs in the same facility and riding on the same "little yellow bus."

(c) If interaction with normal students is planned, it may be infrequent and ineffective. Normal students, who are involved, may not be age-mates for the handicapped students.

(d) The law indicates that access to normal age-mates is only withdrawn if it cannot be handled. Actually, many children are not being given their initial opportunity, but instead are automatically segregated.

9. Due Process is difficult for parents.

(a) Advocates are not readily available.

(b) Reviewing child's records and planning supporting material may be difficult.

(c) When school systems charge 35¢ per page for "xeroxing" records, the cost to parents may be a problem.

(d) Negativism of educators toward the child's level of functioning may be a source of deep hurt for the parents—especially when as many as 14 people from the school system may be brought to the due process hearing.

(e) Due process may contribute to a continuing strain on the parent-educator relationship regardless of the outcome.

(f) Mediation in an informal way may be more effective than the formal due process. Less strain, less expensive, quicker solutions.

10. A central information source is needed for parents of the handicapped. Currently each parent needs to be smart and aggressive to find educational, medical, social, and legal services for their child.

11. Parent organizations could function more effectively to help parents if funding were available to cover costs of telephone, secretarial needs, printing, etc.

12. Private school placements are being sought by many parents.

(a) Does this indicate that public schools are not providing appropriate programs?

(b) Does this indicate the need for parents to be receiving better communication from the educators about their programs?

(c) If the private programs are residential, are educational needs being covered? School districts at home and at the facility differ on "who is responsible" for the educational costs.

(d) Are children in residential settings receiving IEP's?

Endless quantities of additional thoughts are possible, but not today.

Thank you.

#### STATEMENT OF MARTHA ZIEGLER, FEDERATION OF CHILDREN WITH SPECIAL NEEDS, BOSTON, MASS.

Mrs. ZIEGLER. Mr. Chairman and members of the committee, I want to thank you for inviting me to share with you my views. Mr. Chairman, I would also like to add that although I feel that few things are more important than listening to consumers, one of the few things you all have to do is deal with the budget, and that is one of the few that might be more important.

Mr. SIMON. I will probably have to leave in the middle of your testimony.

Mrs. ZIEGLER. I will not be the least offended if you do that.

I am speaking here today first as a parent of two children, one of them handicapped and receiving special education services under Pub-

lic Law 94-142; second, as executive director and spokesperson for the Massachusetts Federation for Children with Special Needs; and finally, as one of the leaders of the burgeoning national movement of parent coalitions. Since Massachusetts has had a headstart in implementing the new special education mandates because of the earlier enactment of our own State special education law—widely known as chapter 766 or the Bartley-Daly law—we feel a special obligation to share our experience with other States and with you.

One of the problems being cited occasionally across the country is the child count, a complaint from some States that they are not identifying as many children with handicaps as had been predicted before enactment of the law. In Massachusetts, the number of children receiving special education services increased from 77,000 in school year 1973-74, the year before our law became effective, to 155,000 in school year 1977-78, the most recent year for which complete numbers are available. Thus, out of a total of about 1¼ million school-age children in the State in 1977-78, just about 12 percent will be receiving special education services.

All the estimates I have seen have been right around 12 percent, and I recall that our own officials predicted 12½ percent just before our State law was enacted. Now, there does not seem to be any demographic or sociological reasons why Massachusetts should have more handicapped children than other States. For instance, there has been no unusually high incidence of rubella or any of the other diseases known to cause handicapping conditions. There is no more widespread severe poverty—possibly less—than in some other States; and the economic and educational levels of people across our State are probably typical—possibly higher—than in some of the States reporting relatively low child counts.

Two other factors have made a difference in our State, however. First of all, our State department of education has aggressively sought out all eligible children, and has insisted that local school departments follow suit. Second, parent organizations—often with the help of the State department—have kept up an equally aggressive campaign to inform and train parents for the new roles required of us under these laws. Incidentally, we have no complaints about those new roles. Participating in the planning of our child's educational programs through the IEP beats bake sales any day. [Laughter.]

Mrs. ZIEGLER. A recent site visit by Bureau of Education for the Handicapped staff revealed that Massachusetts is now serving all but a very few of the eligible students. Service for one of those remaining unserved groups, incarcerated handicapped youths, is now being developed in a special project conducted jointly by our State department of education, the State division of youth services, our county houses of correction, and parent organizations.

I do not wish to minimize the difficulties experienced in our State, but we have solved the major problems. Furthermore, I do not believe that we in Massachusetts are any better, or any smarter, than people in other States—with the possible exception of a couple of our leading citizens, who are your colleagues, one of whom we may lose to the rest of the country.

In the first year, under our State law, we wrestled with the paper burden, which we have heard so many complaints about, and we lightened it. We experienced the pain of the hostilities nurtured by formal

hearings between parents and school officials, and we added a less traumatic, less costly step, a mediation meeting, before the formal hearing. We were fearful and often ignorant about mainstreaming, but we forged ahead, learning as we went, and all our children have flourished—both handicapped and nonhandicapped.

We and other States still need more help from the Federal Government. With the terrible fiscal pressures on public education everywhere, including Massachusetts, we ask you to appropriate the full authorization of funding for Public Law 94-142. Our handicapped children are still too vulnerable a target for the budget cutters.

We also ask you to increase the funding level for the Bureau of Education for the Handicapped to make that agency's financial capacity equal to the enthusiastic commitment of the commissioner and his staff. Parents feel that the bureau especially needs more money in the following three areas:

One: Adequate staff to endorse compliance with the law all across the country.

Two: Increased funding for training of every kind, including parents as well as professionals.

Three: Increased funding for research, especially the kind that has practical application, a type of research that has, in fact, had a high priority at the bureau.

Public Law 92-142 is a sound law; it can be implemented in a manner that can benefit all our children and ultimately improve the society we all share. To emphasize how much positive change can occur in a few short years, I want to close with a few quotations I have encountered recently.

An active, knowledgeable mother of a severely retarded son said to me, "I have changed my own definition of the term 'severely handicapped,'" and she added, "When I visit my son's school it is great to see so many different kinds of children come and go at the resource room, all of them now an accepted part of the school."

A public school teacher and an officer of our State teachers association said recently in a public speech: "The law, with its requirements for parent involvement has changed our attitude toward parents. We have come to respect them as peers and part of the team, rather than seeing them as a mere nuisance."

Finally, this summer, when I was conferring with the vice principal of my own local high school to finish planning the high school program for my own autistic daughter, the vice principal said to me, "But Mrs. Ziegler, don't you realize when we add up all these hours, typing, Spanish, phys ed, she is almost a regular high school student."

Thank you.

Mr. STACK. Thank you, Mrs. Ziegler. We will now hear from Mrs. Marge Goldberg, please.

**STATEMENT OF MARGE GOLDBERG, PARENT ADVOCACY COALITION FOR EDUCATIONAL RIGHTS (PAGER), MINNEAPOLIS, MINN.**

Mrs. GOLDBERG. Thank you, Congressman Stack. I appreciate the opportunity to be able to talk to you today, and to see Congressman Erdahl and other committee members.

I am Marge Goldberg, a parent of a 16-year-old boy with epilepsy and learning problems. Peter began his education in a regular classroom setting without adequate support services in academics, and with teachers who had no previous knowledge of a child with a seizure disorder. Because of their inability to understand his academic difficulties and the psychosocial implications of such a disorder in a classroom setting, he met with continual failure; his self-esteem was demolished, and he developed behavior problems which could have been avoided if his educational program had been appropriate to his needs. Because there were no options available to maintain him in a mainstream setting, he spent the next 5 years in full-time special education programs. Today, Peter is being educated in a regular secondary school in Minneapolis. Although he still receives some special education services, he is enjoying the experience of a much less restrictive placement.

As a parent, I would like to thank Congress for passing Public Law 94-142. I feel it is a most significant piece of legislation. When I look back on my experience before the passage of the law, I have painful memories of the many struggles associated with obtaining appropriate educational programming for my son. It was my perception that I was merely requesting what was his basic human right, but I was made to feel that I was asking for too much and my requests were not received kindly. For him it was a question of inappropriate service, for others it was often a question of no service at all. For many years, Minnesota law had stated that handicapped children shall be served. However, the law was vague, lacked due process procedures, and parents found it nearly impossible to impact upon the system. It was the rare parent who was able to move the system to provide service for his or her handicapped child, for most parents did not know where to go or how to begin.

If it were not for Public Law 94-142, Minnesota would not have the fine special education statute that it has today. Today parents have more input. Today schools cannot base their decisions regarding handicapped children solely upon administrative convenience, and although today Public Law 94-142 may not yet be fully implemented, at least we have made a good beginning. It would be a mistake, we feel, to make changes in the law now when people are just beginning to understand and to implement it.

I am also the codirector of PACER Center, Inc.—Parent Advocacy Coalition for Educational Rights. We are a statewide coalition of 18 organizations in Minnesota, concerned with the education of handicapped children. We are a center where any parent of any handicapped child can receive information on how to work with his or her school and how to participate under the new law. We present workshops throughout our State and provide individual assistance to parents. Hundreds of educators have also requested and utilized our services. We are funded under a grant from the Bureau of Education for the Handicapped, Division of Personnel Preparation. We are pleased that BEH had considered parent training to be an important endeavor.

After the passage of Public Law 94-142, schools had an obligation to train all persons involved about the law. Administrators and teachers were reached, but parents usually were not included. Parent participation is a major component of the law, but parents cannot partici-

pate effectively unless they know their children's rights and their own responsibilities. There is a crucial need for continual parent training.

The basic philosophy of PACER is parents helping other parents. Our staff is composed primarily of parents of handicapped children who have a professional background in education. Our experience has shown us that parents prefer to receive information about the law from other parents who have had experiences similar to theirs. They then are comfortable asking questions; they become confident in their own ability to understand and utilize the law effectively, and they are motivated to become involved in the special education process.

Based on our experiences as parents, and as a result of working with other parents throughout our State, we would like to mention the following concerns about the implementation of Public Law 94-142.

The IEP. In listening to parents, it becomes obvious that one of the most important parts of Public Law 94-142 is the existence of the IEP. The IEP insures that each handicapped child will be looked at as an individual and programmed for his or her unique needs. We have found that teachers who were delivering appropriate programs prior to the enactment of the law—and there were many of them—these teachers have had no difficulty in describing and documenting those services as called for in the IEP. We feel that the IEP and all of its major components provide the only safeguard to a parent that his handicapped child will, in fact, receive the services he needs from the school.

Regarding due process. When for many years educators have had sole authority for decisionmaking regarding handicapped children, any law which attempts to make a change will be difficult to implement. We feel it may take a number of years before schools are totally comfortable with the concept of increased parent participation in the special education planning process and the provision for equal protection under the law for both family and school. In Minnesota, there have been very few due process hearings during the last 2 years—seven the first, six the second. This may seem to indicate that due process procedures are working effectively, and perhaps it does. We are concerned, however, that in reality when a disagreement occurs, parents are unable to avail themselves of the protection of the law because of financial limitations. Schools have easy access to legal counsel through public moneys. Most parents do not have this option and cannot obtain experienced legal counsel at an affordable price.

Mr. STACK [presiding]. May I interrupt you for a moment? Mr. Erdahl and Mr. Coleman, we have a record vote. Shall we temporarily go and vote, interrupt this meeting and come back?

Mr. ERDAHL. I would suggest we do that, take a brief recess, get over on the floor, and come right back.

Mr. STACK. If you will forgive us, please, we will go vote and return.

Mrs. GOLDBERG. Certainly:

[Whereupon, a short recess was taken.]

Mr. STACK. If it is agreeable with all concerned, Mrs. Goldberg, would you resume? I have a feeling we may have to interrupt many times this morning. We enjoy the exercise of going back and forth.

Mrs. GOLDBERG. I hope it was a good vote.



Mr. STACK. It was a very important and a somewhat technical vote. Why not go ahead?

Mrs. GOLDBERG. Thank you, Congressman.

I would like to go on and talk about Federal aid under Public Law 94-142. All of us are aware of Federal programs which have been criticized for failing to use their appropriations for the purposes specified. To avoid the possibility of such abuses, we feel we must maintain a system that accounts for the flow of funds specifically to programs for handicapped students. We do not favor any changes in the Federal "child count" system. At present, no child can be "counted" unless an IEP is operating for that child, which is good because it assures everyone that the child is handicapped as defined by the law and is being served.

Some people claim that being forced to identify a child as being handicapped under the definitions provided in Public Law 94-142 is detrimental to children, and is a form of labeling. We believe that actual "child find" and "child count" are necessary in order to monitor the progress that our Nation is making in response to the mandate to find, evaluate, and serve the needs of all handicapped children presently unserved.

Identifying a student's handicapping condition need not be viewed as labeling; it should be viewed as a funding method, being utilized nationally, that enables us to gain more accurate statistics regarding the incidence rates of handicapping conditions. More important, however, is not how we tabulate or calculate our report for Federal funds, but how we utilize that money to serve handicapped children once it flows into the State. We think that our State financial aid system and the Federal financial aid system complement one another and mesh well. Minnesota has a formula which funds personnel serving handicapped students. The Federal law keeps us honest and accountable by defining whom we are serving and how many we are serving.

Because the national "child count" has not increased as rapidly and as greatly as anticipated, perhaps Congress believes that there are not as many handicapped students as originally thought. In our State we see two factors operating that influence "child count" data. First, there are many children who have been assessed and are awaiting service because personnel are unavailable, even though we know that waiting lists are not legal. Second, there are unwritten school district policies that direct teachers not to identify or assess more children than can be served under existing resources.

It is disappointing to all of us that appropriation levels under Public Law 94-142 have never reached those that were originally authorized by Congress. We hope that Congress will vote to increase the Federal appropriation to States. School districts across the Nation are struggling with limited budgets. It is understandable how frustrating this must be to school administrators who wish to follow the mandate of the law. In anger, they often vent their frustrations and lead the general public to become negative toward serving handicapped children as mandated, and to believe that those mandates are taking away from regular education.

We would hope that school administrators would show more leadership.

In order to alleviate this situation, Congress, we feel, must show a greater financial commitment to reaching full service goals for all handicapped children in our Nation. Without this greater financial commitment from Congress, the negative attitudes associated with the cost of educating the handicapped students—negative attitudes which many States are now reporting—these negative attitudes will continue to grow and will ultimately subvert the positive impact and basic intent of the law.

We feel that the major problems associated with the concept of least restrictive alternative are twofold. First, schools and parents misinterpreted the concept and equated it with the word "mainstream," which to them meant placing handicapped children in regular classrooms without adequate support services. This raised many fears.

Second, regular education was not ready with the expertise necessary to receive handicapped children in the classroom. As an example, right now, in Minnesota today, and probably in many other States, persons can still graduate from either a college or university with a teaching degree without having had any exposure in practicum or in courses to the needs of handicapped children. We will continue to be faced with this dilemma in the mainstream unless higher education can respond to this situation.

As a parent, I have spent years in servicing educators to the specific needs of my handicapped child. I feel we will never know if the new laws will prove to be of long-term benefit to our handicapped children if parents are not knowledgeable concerning the law and its intent, and actively involved in the special education process. On behalf of all parents of handicapped children in Minnesota, I would like to thank Congressman Simon and all of the members of his committee for the excellent work they are doing to insure that all handicapped students in our Nation receive equal educational opportunity.

Thank you.

Mr. STACK. We thank you, Mrs. Goldberg, for a most perceptive statement, beautifully articulated.

Colonel Rettberg, would you care to proceed now?

#### STATEMENT OF DON F. RETTBERG, BERGSTROM AIR FORCE BASE, AUSTIN, TEX.

Colonel RETTBERG. Yes, sir. Mr. Stack, Mr. Coleman, ladies and gentlemen, I am Col. Don Rettberg from Bergstrom Air Force Base, located just outside Austin, Tex.

I appreciate this opportunity to bring you a most important recommendation. However, my words are not the critical element needed for change. It is your action that can, and hopefully will, provide new opportunities for today's and tomorrow's handicapped infants.

Picture in your mind's eye a blond-haired, blue-eyed, 3-year-old little boy, strong of body, in good health, but with 47 chromosomes in every cell in his body—not 46 chromosomes as you and I have. Twenty years ago this child would have been called a mongolian idiot; 10 years ago he would have been called a mongoloid. But today his handicapping condition is called Downs syndrome. The labels, though much more palatable now, are also not important. But as the labels have changed, so have the probabilities for such a handicapped child to achieve a meaningful and productive life. As parents we thank God

that this little boy, our son Don, Jr., was born in this new and enlightened era. We see the positive aspects every day of infant intervention; and while we have had help, it could have been much better.

The request I bring before you today is extremely simple and was presented earlier to the Senate Subcommittee on the Handicapped. The recommendation is based on the same principle that directs Federal support to all other special education, and is first found in the title of Public Law 94-142, the Education for All Handicapped Children Act of 1975. It is again found in the intent of the act that, "assures all handicapped children the right to a free and appropriate public education." In both references the key words are "all children"—not just those who are 3 or older.

The request, therefore, is this, that this Congress initiate amending legislation to lower all age references in Public Law 94-142 from the currently stated 3 to zero. If you will keep this concept in mind, I feel sure you will see how it could affect every future handicapped child throughout the Nation.

One: What are the benefits of early intervention and education? A quote from a noted educator, Dr. Benjamin S. Bloom of the University of Chicago best addresses this question. Dr. Bloom wrote:

In terms of intelligence measured at age 17, from conception to age 4, the individual develops 50 percent of his mature intelligence; from ages 4 to 8 he develops the next 30 percent; and from ages 8 to 17 the remaining 20 percent.

Two: What does the current law say, and how should it be amended? Public Law 94-142 is very specific and in six places identifies age 3 as the floor for special education. We recommend that in each instance the age minimum be changed to read zero.

Three: Why have not earlier legislative initiatives for special education addressed the age group from zero to 3? The field of infant intervention is relatively new and, as described by Dr. Alice Hayden, one of the foremost authorities in the field, in the past 10 years there has been a virtual knowledge explosion in all areas of infant research. In a nutshell—legislative initiatives have simply fallen behind in converting research initiatives into working community programs.

Four: What are the reasons for making the change? The first reason for placing infant programs under the umbrella of special education laws is the practical need for more stable and expanded funding—in other words, money. Using Texas as an example, we find that funding under the Department of Mental Health and Mental Retardation has fallen 19 percent behind inflation in the past 3 years—while at the same time special education funding has outpaced inflation. Closer to home, we currently have 67 children on a waiting list who will not receive help for from 6 to 8 months. I would like to add, this is the most critical 6 to 8 months.

A second reason is that the change would create the potential to reach every handicapped child in the Nation—not just those who happen to live near a metropolitan area. In Texas, the statewide capacity is 1,600—while an additional 2,300 go unserved. Nearly 60 percent of the handicapped infant population gets nothing.

Finally, what are the fiscal impacts of such a change? While I cannot address the Nation as a whole, I can tell you that for only 3 cents of the Texas special education dollar—that is correct, only 3

cents on the dollar—the emphasis can be moved to where it would do the most good, converting potential tax users into productive taxpayers. The cost of institutional care exceeds \$45 per day, and for each and every person who turns the corner as a result of early intervention, the cost savings, based on a life span of 55, is of the magnitude of \$115 saved for each dollar spent.

I hope that our Texas example of what is, and what could be, has left no doubt in your minds as to the need for change. Public Law 94-142 is a revolutionary piece of legislation that has already done so much for so many. All that we ask for in the case of infants is the chance to reap the elusive benefits available in the earliest, most critical years. Changing the words "aged 3" to "aged zero" in all six places in the law will provide that opportunity.

I would like to end on a most positive note. The blond-haired, blue-eyed, 3-year-old little boy that I described earlier is functioning at the same level as most normal children. His greatest loves are people and horses. He can recite the Lord's Prayer; most of "The Night Before Christmas," and as he salutes the flag—The Pledge of Allegiance. I have no doubt that, God willing, he will continue to mature and learn to the point that he will be a productive citizen.

We ask you to give every present and future developmentally delayed infant in this Nation the same, if not an even better opportunity than our son has had. Changing Public Law 94-142 to cover handicapped children from birth will provide that opportunity.

I sincerely appreciate your kind attention and will be glad to answer any questions.

[The prepared statement of Colonel Rettberg follows:]

PREPARED STATEMENT OF COL. DON. F. RETTBERG, BERGSTROM AIR FORCE BASE, AUSTIN, TEX.

Mr. Chairman, members of the Subcommittee, I am Col. Don Rettberg from Bergstrom Air Force Base, located just outside of Austin, Texas. I appreciate this opportunity to bring you a most important recommendation, however my words are not the critical element needed for change. It is your action that can, and hopefully will, provide new opportunities for today's and tomorrow's handicapped infants.

Picture in your mind's eye a blond haired, blue eyed, three-year-old little boy—strong of body, in good health, but with 47 chromosomes in every cell in his body—not 46 chromosomes as you and I have. Twenty years ago this child would have been called a mongolian idiot. Ten years ago he would have been called a mongoloid, but today his handicapping condition is called Down's Syndrome. The labels, though much more palatable now, are also not important, but as the labels have changed, so have the probabilities for such a handicapped child to achieve a meaningful and productive life. As parents we thank God that this little boy, our son Don Jr., was born in this new and enlightened era. We see the positive aspects of infant intervention every day, and while we have had help, it could have been much better.

For the past 15 months parents of handicapped infants in Austin have worked hard to give an infant-parent training center that was started six years ago with the help of time-limited federal grants. We have talked to all levels of government and pointed out the long term savings and benefits for developmentally delayed children, ages zero to three. City, county, and state officials have all responded in varying degrees to our requests for better, more stable programs, however, the required degree of stability and nationwide benefit can only come from here—in our Nation's capitol.

Our central Texas example is in some ways a success story, but success—like failure—is always relative. As you will see, we had not still do have problems, but remember that these same problems are multiplied a hundredfold in thousands of nonmetropolitan areas throughout Texas and the Nation where there is no assistance at all. Countless children from these areas are doomed to the permanency of life in an institution—and only because parents and teachers are



not given the framework from which to administer proper therapeutic training at an early enough age. It is for this reason that the two words—oversight hearings—can have a special meaning to today's and tomorrow's handicapped infants.

The request that I bring before you today is extremely simple and was presented earlier to the Senate's Subcommittee on the Handicapped. The recommendation is based on the same principle that directs federal support to all other special education and is first found in the title of Public Law 94-142—"Education for All Handicapped Children Act of 1975." It is again found in the intent of the Act that—assures all handicapped children the right to a free and appropriate public education." The key words in both references are—all children—not just those who are three or older. The request, therefore, is this—that this Congress initiate amending legislation to lower all age references in Public Law 94-142 from the currently stated three to zero. If you will keep this concept in mind, I feel sure that you will see how it could affect every future handicapped child throughout the Nation.

Let me give you a short synopsis of why we propose what we do. Our parent-group actions started 15 months ago when 45 children were to be removed from our local infant-parent training center due to a lack of funds. Responsive city and county officials provided emergency supplemental funding with an end result that the level has been maintained at 120 children. Inflation, however, has at the same time eroded quality from the program.

Our search for more funding stability and increases to cover unserved children led us to seek a more lasting, broader-based solution. The obvious starting point became state and federal laws that govern special education. We found that at both levels the laws are consistent in that they cover only children ages three to 21. In fact, when we asked why a study of special education by the Texas Legislature did not consider lowering the age to zero, we were told that the study had "followed the federal guidelines as spelled out in Public Law 94-142." We subsequently came close to getting the needed changes in Texas law in the last session of the Texas Legislature; however, time ran out before the final bell. As a backup position, a special interim committee was established with a mandate to report back to the next session with appropriate legislation that should establish statewide infant programs under the Texas Education Agency. This initiative and my recommendation to you today have the strong support of over 20,000 members of the Texas Association for Retarded Citizens.

By six brief questions and answers let me specifically address why Public Law 94-142 should be changed so as to cover handicapped children ages zero to three.

No. 1: What are the benefits of early intervention and education?

A quote from a noted educator, Dr. Benjamin S. Bloom of the University of Chicago, best addresses this question. Dr. Bloom wrote: "... in terms of intelligence measured at age 17, from conception to age 4 the individual develops 50 percent of his mature intelligence, from ages 4 to 8 he develops another 30 percent, and from ages 8 to 17 the remaining 20 percent."

No. 2: What does the current law say, and how should it be amended?

Public Law 94-142 is very specific and in six places identifies age three as the floor for special education. We recommend that in each instance the age minimum be changed to read zero.

No. 3: Why haven't earlier legislative initiatives for special education addressed the age group zero to three?

The field of infant intervention is relatively new and as described by Dr. Alice Hayden, one of the foremost authorities in the field, in the past ten years there has been a virtual knowledge explosion in all areas of infant research. In a nutshell—legislative initiatives have simply fallen behind in converting research initiatives into working community programs.

No. 4: What are the reasons for making the change?

The first reason for placing infant programs under the umbrella of special education laws is the practical need for more stable and expanded funding—in other words—money. Using Texas as an example, we find that funding under the Department of Mental Health and Mental Retardation has fallen 19 percent behind inflation in the past three years—while at the same time special education funding has outpaced inflation. (See attached chart.) Closer to home, we currently have 6 children on a waiting list who will not receive help for from six to eight months, and a recent initiative to eliminate the waiting list with supplemental city funding met with total failure.

A second reason is that the change would create the potential to reach every handicapped child in the Nation—not just those who happen to live near a metropolitan area. In Texas the statewide capacity is 1,600—while an additional 2,500 go unserved. Nearly 60 percent of the handicapped infant population gets nothing.



A final and equally important reason for making the change is that one agency could better direct and coordinate an individualized education plan from the beginning—rather than two or more as is the case now.

No. 5: What are the fiscal impacts of such a change?

While I cannot address the Nation as a whole, I can tell you that for only three cents of the Texas special education dollar—that's correct, only three cents on the dollar—the emphasis can be moved to where it would do the most good. This three cents on the dollar, while minimal, can't be ignored; however, we must not overlook the monetary savings achieved by converting potential tax-users into actual taxpayers. The cost of institutional care exceeds \$45 per day, and for each and every person who turns the corner as a result of early intervention, the cost savings, based on a life span of 55, is of the magnitude of \$115 saved for each single dollar spent.

No. 6: How will this change impact individual states?

While writing Public Law 94-142, Congress did not mandate that individual states establish education programs for children ages three to five; however, it did provide a strong incentive to do so in the form of federal funding support. Changing the age to zero would simply ensure the right of eligibility in accordance with guidelines as established by each state.

I hope that our Texas example of what is, and what could be has left no doubt in your minds as to the need for change. Public Law 94-142 is a revolutionary piece of legislation that has already done so much for so many. All that we ask for in the case of infants is the chance to reap the elusive benefits available in the earliest critical years. Changing the words "aged three" to "aged zero" in all six places in the law will provide that opportunity.

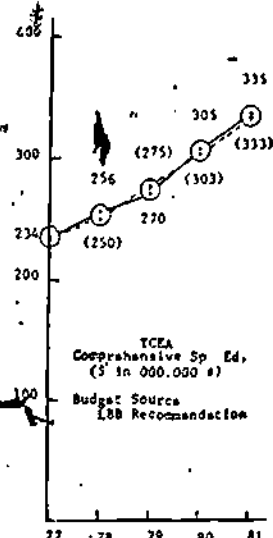
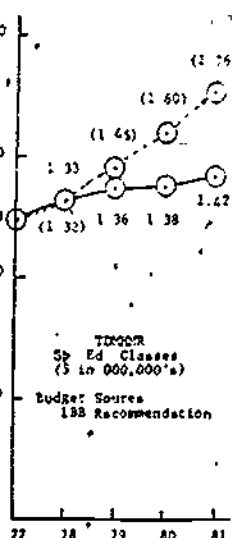
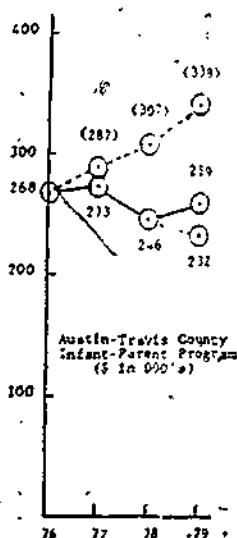
I would like to close on a positive note. The blond haired, blue-eyed, three-year-old little boy that I described earlier is functioning at the same level as most normal children. His greatest loves are people and horses. He can recite the Lord's Prayer, most of The Night Before Christmas, and as he salutes the flag—The Pledge of Allegiance. I have no doubt that, God willing, he will continue to mature and learn to the point that he will be a productive citizen.

We ask you to give every present and future developmentally delayed infant in this Nation the same, if not an even better opportunity, than our son has had. Changing Public Law 94-142 to cover handicapped children from birth will provide that opportunity.

I sincerely appreciate your kind attention and will be glad to answer any questions.

BUDGET TREND COMPARISONS  
PROGRAM/CATEGORY SHOWN vs INFLATION RATE BUDGETS

NOTE: Inflation budgets are based on 7% FY 77-78 and 10% FY 79-81  
Amounts shown in ( ) are inflation rate budgets



Mr. STACK. Colonel, we thank you for your testimony. If I may, I would like to make a few brief remarks. It is very interesting to me that both Mrs. Goldberg and you, Colonel, address among other things the change in the age from 3 to zero, and both of you emphasized the need for more Federal participation, more Federal funds.

Of course, you are aware that allegedly we live in an era where people are crying out for tax reduction, proposition 13. The administration has spoken of the need for austerity, and the problem is obviously that we can tighten the amounts we spend overall in a variety of programs; but the question obviously is, do we withhold appropriate Federal funding from very much needed programs such as the one we are addressing here today.

It is a heartbreaking experience to see people to whom you speak who have children that are handicapped not being helped because of lack of funding. I would have to agree with you that certainly, the earlier we can intervene, the better, without any question. Personally, I agree that in the field of Federal funding this is the last place we should cut.

But, I have found in my relatively short experience in the Congress that it is a very complex problem to accomplish anything, really; and translating our concerns in this committee into action is sometimes easier said than done.

I think the one concern that I would have, all of you on the panel have certainly been highly articulate, and you are obviously people that are not only deeply concerned with the problem and painfully acquainted with the nature of the problem, but you are better educated than the average person. My concern would be, among others, we are not as well informed and as interested, perhaps, as you with what we are doing to the average child or parent out there in the community; are we really making a determined effort to seek out the children, as was referred to in your testimony. Those are some of the things that I would be concerned about.

Now, as to Mrs. Ziegler's comment with reference that you might be losing a certain member. I think you must be referring to Mr. O'Neill, that Mr. O'Neill is going to become Vice President? [Laughter.]

I sort of heard an overtone there. I cannot think of anyone else you could have had reference to.

Mrs. ZIEGLER. We do not have very many Irishmen in Massachusetts.

Mr. STACK. An Irish-American is presiding over this meeting.

Mrs. ZIEGLER. We have reason to be very proud of our congressional delegation, as a matter of fact.

Mr. STACK. You have every right to be, in truth.

Now, Mr. Erdahl, do you have any comments?

Mr. ERDAHL. Just a couple, if I might. Again, the bells ring and bother us. We will have to leave again shortly, but I want to thank the panel for being here. We have had several days of testimony on this, and this group, again, comes with personal experience that may be a bit difficult emotionally to relate to us, but I think because of this personal experience it becomes even more meaningful.

I just have a couple brief questions. Mrs. Ziegler, in your testimony you talked about your State department of education aggressively seeking out all eligible handicapped children. How do they do that, especially when you get into the pre-school age children? Again, as

the gentleman talked about very early detection, we must pursue that concept; but how is that practically implemented to get out into the communities and neighborhoods to find the people that really need the help?

Mrs. ZIEGLER. Well, our State has conducted statewide campaigns and has also insisted that each local school district conduct its own campaigns. Now, our law requires only down to age three; we do not have an educational requirement in our State yet, either, from zero to three. We have some other kinds of services through other agencies; and I was going to say, the Federal Government also has some other sources of money for those children—probably not enough.

But we have media campaigns, going right into the neighborhoods. Going back to what Mr. Stack said, one of the things that has worried us in Massachusetts from the beginning is reaching those parents who are less educated, the mothers who have to work all day, who cannot be going to school or come in to our information office, you know.

Together we try to get our fliers into beauty shops, into the laundromats, into the public housing buildings, the health clinics the last time I heard, in 17 different languages in Boston.

Mr. STACK. This is where the ACTION program could be effective. We are going to have a most important vote, Mr. Coleman?

Mr. COLEMAN. Let me ask one question because I do not think I will be able to come back. I am involved in another committee assignment.

Assuming that the same amount of resources are available—would the panel answer just briefly, yes or no—do you feel that the extension of coverage under the act down to age zero is advisable? What is your view on that, making the assumption that there is not going to be an increase in appropriations? Do you think that is a good way to go; would you trim off the top, or how would you do it?

Mrs. GOLDBERG. I hope I am not sound terribly in disagreement with others here, but seeing the problems that we right now have in serving mandated populations, from 3 to 21, or the completion of high school, I would like to see, for schools and parents, that we can do that well before we take on something else.

Minnesota only starts with a mandate of age 4. I do not know when we will ever have the resources to get to 3. I would like to see that the law you people created can be administered and implemented at least in those ages first, before we consider lowering it.

Mr. STACK. I am afraid that we will have to go, Mr. Coleman. This is a matter, certainly, of legitimate concern, but I would say, speaking for myself only, I think what we have to do is come up with more money overall. I do not think we have a right to make this selection.

Mr. COLEMAN. I think we are on the road to finding out that there is not a universal opinion on this matter. It ought to help us because, like it or not, we are not going to be able to find that many more dollars to fund this program.

Mr. STACK. I would like to say this: I am going to try, and I am sure you will, too.

We shall return.

Mrs. ZIEGLER. Thank you.

[Whereupon, a short recess was taken.]

Mr. STACK. If we may reconvene, we were talking about the problem of lack of funding, and also the problem of including the age

zero to 3. Going over to the chamber, I discussed this problem with Mr. Coleman. He made a suggestion I thought you might like to consider. If we could not increase the amount of funds, total funds, available, what would your thoughts be if we were to, let us say, reduce the development funding program in age bracket 18 to 21, and go from zero to 3 on the theory that funds from other programs might be found for that category?

Mrs. ZIEGLER. The opposite is true. There are little pots of money here and there in the Federal Government from zero to 3—family health services and developmental disabilities. The 18 to 21 kids are facing their last chance.

Mrs. LEE. It may be that the 18- to 21-year-olds did not have much of a chance in their preschool years, so that they are still requiring a high concentration of education.

Mr. STACK. That is true. The colonel has spoken very eloquently that there has been certainly an improvement in the situation, that is, getting into the problem early on, which did not exist some years ago.

Colonel RERTBERG. Mr. Stack, if I might, I look at the response to Mr. Coleman's question and your comment as being, the fact needs to be made clear that 94-142 mandates nothing to any State. If a State has its law that says 5 through 18 in special education, that is what it says. Under the current 94-142, ages 3 to 5 is an incentive for those States that want to take advantage of the funding incentive; they can do it.

I look at lowering the age to zero rather than the current 3 as being the same thing. It provides that incentive. If I can speak for the State of Texas—and I can only speak by virtue of the fact that this year we came that close to the legislation passing, and it was a matter of time that kept it from happening.

Texas. I think, wants to. Every vote taken by the full senate, both education committees in the senate and house in the State of Texas were all unanimous to go to zero. So, Texas wants to do this. Current funding from the Federal Government is, I think, at about 60 percent of the enabling legislation. In 1982, when it reaches 40 percent, there is a question mark as to what that funding will be. But it gives the prerogative to each State by changing the law to then be able to utilize those funds as it sees fit. I think that is quite proper and just: it should be that way.

So, that is the first answer. I think, to the question. Since it mandates nothing, it leaves the prerogative to the State, and the funding, if it is diluted, is on a State-determined basis. I think that is very appropriate because the majority of funds is still coming from local school districts. State government.

Now, relative to the 18 to 21 question. I also would not want to go on record to say, "Take it away from that group to give it to the zero to 3." Not to take issue with anyone else. I would also say, "Where is the greatest potential?" I would only say, ask the educators rather than myself. I would not want to go on record and say yes, but I would also say that the greatest potential for that child exists in those earliest years, from what I have been able to gather on the subject. I do not want to go back to the testimony, but that is basically it: you have to weigh the merits. That becomes a decision that is not mine, and it can

be a very emotional decision, but the potential for growth should be weighed by the subcommittee if it were to pursue that course of action.

Mr. STACK. It seems to me that, basically, the lack of funds exists in all social programs. Before I came up here, I was very much involved with the State department of health and rehabilitative services. We found that almost every program was underfunded. I spent many years of my life working with mental health. I come from Florida, and our services for mental health are bad, and yet we really are one of the lowest taxed States in the Union. I hesitate to tell people that when they are complaining about taxes, but in truth, taking into account Federal, State, and local taxes, Florida ranks about 48th in the Nation; only Mississippi and one other State have the distinction of being lower. I think Mississippi now ranks 47th.

The thought I have is this, that perhaps through the organizations for which you speak, that where we will have put the emphasis on is not only trying to get Federal funding, and Colonel, you made the point very well, but State funding as well. We have to try to wake up our State legislatures that we need funds for the types of programs we are dealing with here today.

I think you pointed out the need very well, and I compliment the panel. Mrs. Ziegler, did you want to make an observation?

Mrs. ZIEGLER. I did. Like yourselves, some of us also talked together about the question while you were voting, because it is a stimulating one. It is a lot more complicated, though, than it first appears. One of the things that we thought about is the fact that the added cost might not be quite as much as we first thought because, actually, relatively few handicapped are identified during the zero to 3 age period. You are really talking primarily about those that are birth defects, which are obvious at birth—such as Downs syndrome and spina bifida—but a lot of deaf children do not have their deafness identified until age 8, or even after. Autism, which is the disability my child has, is rarely diagnosed much before age 3.

The second complication that we thought about is the fact that most of our States do not mandate education for all children under age 5, and some of them under age 6. In Massachusetts, where our special education law does go down to age 3, but only for substantially handicapped children—whatever that means—we anticipated a backlash from other parents because there is no public education for all children under age 5. That has not happened, but what has happened is that we have trouble mainstreaming our handicapped children from age 3 to 5 because there are no public preschool programs.

I would like to see those pots of money that are there—the little ones, even—brought together under the bill of education for the handicapped. Now, I know that is really hard, to pull money out of one agency and put it in another one, but that seems like the more logical thing.

Mr. STACK. I think you have identified the problem, and that is certainly important.

Mrs. LEE. Mr. Stack, may I just add a word? I am not very much into school finance, and I acknowledge that; but I am aware of some little pots of money that Martha Ziegler mentioned. One of the things that crossed my mind in response to Mr. Coleman's question was that I think some of the moneys could be spent in a different pattern, per-



haps. In Illinois, for instance, it is not 94-142 money that is building segregated training centers, but it is money, special education money. Those trainable centers are really concentrating on the principle of least restrictive environment. I was personally working very hard to oppose one in my own area that was costing over \$9.5 million to construct. It has been constructed and is in use. I find it difficult to accept the fact that this kind of money was spent on that kind of structure. I also find it difficult to accept the fact that I am hearing that there are more proposals being submitted at the present time, asking for permission to build the same types of things—in Emporia, Ill., Springfield, Ill. and a number of other places.

So, my feeling is that if we could analyze some of our implementation of the philosophy behind Public Law 94-142 and see if there are some things being done that cost money that are really not appropriate and then perhaps redistribute some of the money in a different pattern. We may end up better off all the way around in two ways, not only financially being able to spread it around a little bit better, but actually serving a better educational function for some of our young people.

Mr. STACK. That is a very constructive analysis. Mr. Erdahl, do you have any questions?

Mr. ERDAHL. Thank you very much, Mr. Chairman. I would just like to pose a couple of questions.

Mrs. Goldberg, you talked about the term of the "least restrictive" alternative environment. I suppose in many ways that would be using this "mainstream" concept. Would you elaborate what you mean by that? Are you saying that sometimes it might not be least restrictive?

Mrs. GOLDBERG. I think when I spoke before I was alluding to a problem that I felt we originally had when 94-142 was enacted, which brought up extreme fears on the part of teachers, parents, and the whole community. My remembrance is perhaps that "60 Minutes" documented it quite well in a program they presented this year. I think that when we talk about "least restrictive," we are saying, what is the least restrictive environment for any one given child. A child that might have been placed in an institution a number of years ago and can come out of that facility and be placed in a school along with nonhandicapped children, even though that child may need full-time special education, but have some integration with nonhandicapped children during lunch hour, on the playground, that is the least restrictive environment, at this point in time, for that child. For another child, it may be the regular classroom setting with an hour a day of learning disability tutoring.

Because the word "mainstream" took over, I think, instead of the concept of "least restrictive," we had everybody assuming that we were going to be dumping kids back in the regular classroom without the appropriate services. In some places it happened. It was cost-effective and kids were put back in there, and the programs were terrible. I think, therefore, we got this public reaction of "what are we doing," and parents of nonhandicapped children became very concerned, too, about what kind of education their children were going to get with children in the classroom where there were no services to provide, and the teacher was hassled.

Mr. ERDMAN. If I might interrupt, because you made the exact point that we heard expressed yesterday. I am not sure if this panel was here for our committee meeting, where leaders of educational groups, the NEA, and the American Federation of Teachers, both reacted negatively toward the implementation of the act when several children with special needs, handicapped children, are placed into a class of 30 students. They reported that four or five handicapped children had been placed in a class of 30 students, where before they had been in a special education class with only 8, 9, or 10 students.

The main criticism they had—and I think it is a just one—was that the teachers were not equipped. One teacher said he did not have 1 minute of any training in this area of special education. Yet, he felt that the law mandated that the people be mainstreamed, put into a situation that was not good for the handicapped students, was not good for the other students, and was not good for the teacher.

I think you touched on the meaning of the least restrictive environment for that individual student.

Mrs. GOLDBERG. It is a terrible interpretation of the law, and I think we have seen it happen. I happen to think that one of the best ways that I know of, with my background and what we are doing to stop it, is have parents know the intent of the law. When a severely handicapped child is placed in a classroom without adequate support, the best way to have an intervention happen, or a change, is when the parent does not agree with that kind of placement, and sits down to work out a more appropriate placement with the school.

But without the consumer of these services knowing the intent of the law we are finding that schools often misinterpret the law. I think it is better now than it was 1 year ago. I think that people are re-analyzing and realizing that maybe the leadership that was there to interpret the law was lacking somewhat.

But it really is very scary, I think, when you have administrators in regular education trying to let people feel that this law is creating these problems. The law is not creating the problems, the law is a good law, and we are thankful to have it. It is how it is implemented, how regular education sees it, and what its interpretation is.

Mr. ERDMAN. Perhaps some other member of the panel would like to respond, too.

Mrs. LEE. If I may, I am extremely interested in the idea of integration between the normal kids and the special education youngsters. Although I realize that you do not want a dumping ground, it depends, I guess, on where you are on whether or not you see that happen. I was unhappy with the "60 Minutes" presentation because I thought that it only brought out the worst situation. By contrast, I think, there are many good situations where youngsters are going to be brought into interaction with normal peers and regular teachers.

I think, again, one of the points I made in my presentation was the need for in-service training for regular teachers, so that they will know how. As I understand it, 10 percent of the 94-142 moneys are to be spent for in-service training for both teachers, parents, and social workers. I think that is an important thing.

I also believe that there are many educators in the country who have a lot of knowledge, much more so than I have, for sure, as to methods by which the handicapped youngster in a regular classroom setting can

be helped. These include such things as peer tutoring. Other, normal kids may help assist the child who has limitations. I think actually many times we are aware that the normal child can become a better person by having his chance to rub elbows with the handicapped. It helps develop compassion and understanding for other people in this world.

So, I think some of those things can be brought into play to make the introduction of our handicapped fit into a regular classroom a workable reality.

Mr. ERDAHL. Thank you very much. One of our staff members had a question, he has been here for all the testimony. So, if you would permit him, Mr. Chairman.

Mr. DEAN. I understand from Tuesday's hearing that the NEA or the AFT, one of the two, suggested that teachers should be able to have the authority to remove a child from a classroom if they felt that the placement under the IEP had been inappropriate.

I was wondering, based on your experience—and we have heard the comment a number of times that regular classroom teachers are not too knowledgeable as they should be—if based on your experience this is a good idea to have this flexibility in the law?

Mrs. ZIEGLER. I would like to comment on that in connection with the prior question. To be perfectly honest, I did not get any inservice training on autism—pre or inservice. But, no, I do not think any teacher should be able to dismiss a child from a class without due process. The due process safeguards are there, they can have discussions with parents, with the whole team, and so on. Goodness knows, mistakes get made and they should be remedied.

But in connection with mainstreaming, in Massachusetts we went through a lot of these same problems, and it is easy to misunderstand the purpose. I think we have to go back to the IEP, and Mrs. Goldberg started to refer to that. The most important part of this law is the individualized education plan, and what is appropriate for the individual child educationally; secondarily is the least restrictive environment that is appropriate.

I have to share with you the fact that my own daughter, who was classically autistic still at age 4, was not mainstreamed until junior high school. Now, I would assume—and I think everybody would who knows anything about education—that is probably the hardest time to do something traumatic and new, and different. It was done by skillful resource room teachers: receiving teachers knew nothing about autism. They had probably never seen an autistic kid.

Teachers often have resources that they do not recognize they have, that has been my experience. Commonsense often, and knowledge of work—the first question they asked was, "When she bites her finger or has a fit"—which is still sometimes used—"what should we do?" The students asked that, the teachers asked that. Do you know what the answer was from the resource room teacher? "Make her stop"—and they did.

Mr. STACK. If I might make a comment there. Does not the answer to the question you propounded lie into who should be included in developing the IEP program, initial placement, in the first place? I mean after all, I quite agree with Mrs. Ziegler, one should not allow

the decision to be made by an individual classroom teacher. I do think it is important to be able to give very careful thought to who develops an IEP procedure and decisionmaking in the first place. That is really where it has to be at, with all due respect to the observations made by the witnesses to which you are referring.

Mrs. ZIEGLER. Most so-called regular education teachers are not included as much as they should be in the planning process.

Mr. STACK. Colonel, I wonder if I might direct a question at you.

Colonel RETTBERG. Yes, sir.

Mr. STACK. In this bill, assisting the children ages zero to 3, would you care to elaborate on the types of services that you feel we should be providing? That would be most helpful.

Colonel RETTBERG. I would be most happy to, sir, and I appreciate it; it is a good question. It touches on a question Mr. Erdahl had earlier, that I wanted to respond to, identification in the earliest years, or months, or days.

We have an infant-parent training center in Austin under the department of mental health and mental retardation, and I pointed out the problems with the funding we had, and why we are trying to get under the umbrella of education. With that background, our center has 120 children. As my longer testimony, testimony submitted for the record, indicates, 45 children are being cut out of that program out of the 120. So, it was coming down from 120, being reduced by 45 about 1 year ago. We fought that at the local and city level, and it has been held at 120. However, the waiting list is still there.

The specific answer I wanted to direct to you, Mr. Erdahl, is that approximately 50 percent—50 percent—of our referrals come from the hospital—either the doctors, nurses, social workers, whoever while the mother and infant are still in the hospital. So, identification of some number of these children is early.

I also agree with some of the other comments here that there are types of "handicapped", learning disabilities, other things that do not show up until much later. That is another reason for the cost being so low.

But now to the specific question you had, Mr. Stack. Each family has to manage that infant's—that child's—growth the way the family sees fit. I can only relate our own case, but we have found this very representative of what parents are doing now that some help is available.

We did not want our child out of the home environment. I do not mean taking him to church and things like that. By the "home environment" I mean that he was not going to a school environment of any sort until what turned out in his case to be 18 months. However, as soon as we got back from Naples, Italy, where my son was born, we started having a "social worker." I would have rather that it had been an educator, someone trained in special education. This person had worked with handicapped children for 5 years and so was quite good. We started Don in at about 5 months with trained help. The person came to our home 1 hour, 1 day each week. So, we had help, professional help, for 1 hour, 1 day. But the training was evaluation of the child by other professionals; then his monitoring that little boy's development as to how we were executing the development—if I am

relating this very clearly. He would come and say, "Well, what progress has he shown in grabbing a rattle this week?" "Well, not too much." Then, "Let us do it a little differently." That is the program I am speaking of, until you are ready to start him in the program where the physical therapist, occupational therapist, speech therapist—and speech starts very early, it does not start when people think. The first sounds are speech, and all those things tie into this equation.

So, getting back to my little boy, 18 months, 1 day a week, 1 hour. It was help that was good, but could have been much better. At 18 months he started going 3 days a week, 2½ hours a day. He is now 3. He is still going to that special program funded by the State Department of Mental Health and Mental Retardation, local funds, and some Federal funds. He is now going to that program, still, 3 days a week, 2½ hours a day.

However, we also want him to have some normal integration with children. So, the other 2 days we send him for 3 hours to a normal kindergarten.

Now, at age 3, under Texas law, he will go to a program 6 hours per day if that is his need. If his need is not 6 hours a day, he will get what he needs. That will be up until age 6.

Did I answer your question, Mr. Stack?

Mr. STACK. How does the kindergarten program work out, how do you find that working?

Colonel RETTBERG. The age 3 to 5?

Mr. STACK. The one you had reference to.

Colonel RETTBERG. Oh, the normal one?

Mr. STACK. Yes.

Colonel RETTBERG. My wife had to fight for 6 months to get him in, but now I think they are seeing that as a great experience for those other children of that age as well. I say "fight." The people had never done it, so they wanted to make sure they were doing the right thing. But that has proven to be outstanding. In fact, I will relate one specific instance, I do not want to tie too much of your time up, you are very busy.

About a week ago my wife went to pick him up and the teacher came running up to her, all excited, and she said, "Look, look, he is over there carrying on a conversation with a 4-year-old," and he was. So, the experience has been very broadening for a lot of people.

Mr. STACK. Thank you, Colonel.

Mrs. LEE. If I may add a word. In our area there is a private agency, funded by many things I am not fully involved with, but the education of the youngsters begins as early as 3 weeks of age or thereabouts. The referrals are from the hospitals or from the doctors. The first 2 years of the program it is a mother-child training session. The mother attends classes with her infant, and is working with a physical therapist and occupational therapist, speech therapist, and various other types of specialists. At the age of 2, the youngsters then go into a sort of classroom situation which may be more structured than the Colonel might like; but they do some of the basic things that are going to be important to their absorbing education in a structured situation later on.

They go into the public preschool program at the age of 3, and all of a sudden they are faced with a rather abrupt adjustment in our



area. The State public school covers it, but as Marjorie has pointed out, there are no peers for the 3-year-olds in any regular school. There tends to be the habit of putting these preschool programs into trainable centers, which means that there are many kids who are really higher functioning and will not be going into the trainable center later on, but suddenly become locked into it in that 3- to 5-year-old interval. We are concerned about this.

Here again, being involved with Downs syndrome, we find that a lot of the Downs syndrome youngsters are not being considered individually, but are being assumed to be going toward the trainable. We have had some very smart parents of 3-year-olds who are now fighting because there are a few so-called noncategorical programs for 3- to 5-year-olds in regular school buildings. The children get a much better opportunity there because there they do have interaction with regular kids. I think the interaction with normal youngsters is a fantastic learning experience in itself. I mean, all the things that are done by the teachers, the therapists, and so on are meaningful, but to be able to learn to play and learn to speak, even, from normal kids of a similar age is very important.

So, I think that in many different locations there are different approaches as to how the programs are developed.

Mr. STACK: Mr. Erdahl?

Mr. ERDAHL: Thank you. I have no further questions, but again I thank the panel for being very helpful and giving personal testimony; that is good.

Mr. STACK: I think you have been very helpful to us and we do appreciate it.

Mrs. LEE: I am sure we would all be available on request at any time. We are very enthusiastic people.

Mr. STACK: Thank you, Mrs. Lee, Mrs. Goldberg, Mrs. Ziegler, and Colonel Rettberg. We are delighted to have had you here to help educate us.

Mrs. ZIEGLER: Thank you.

Mr. STACK: We will do our best to be helpful.

Colonel RETTBERG: Thank you, sir, for your sincere interest as well.

Mr. STACK: We have a second panel, Mrs. Jeanne Frankl from the Education Rights Project; is Mrs. Frankl here? And Matthew Bogin, an attorney from Washington.

[The prepared statement of Mrs. Frankl follows:]

PREPARED TESTIMONY OF JEANNE SILVER FRANKL, LEGAL DIRECTOR AND DIRECTOR, EDUCATION RIGHTS PROJECT, PUBLIC EDUCATION ASSOCIATION (PEA)

I am Jeanne Silver Frankl, Legal Director and Director of the Education Rights Project of the Public Education Association ("PEA").

PEA is a nonprofit, nonpartisan citizens' organization chartered by the New York State Education Department to investigate, report, and do legal work including litigation on issues affecting public education in New York City. PEA's Education Rights Project was established in 1976 to assure fulfillment of the rights of handicapped children in New York City schools as defined by Public Law 94-142.

I wish to convey appreciation and admiration for the Congressional policy set forth in The Education of All Handicapped Children Act (Public Law 94-142) and to urge that its provisions have your continued, unwavering adherence and support.

In New York City, Public Law 94-142 has been the impetus for beginning to redress long-standing patterns of neglect and discrimination against children

with apparent or actual handicapping conditions. These patterns were known and deplored by concerned educational officials and citizens for years. They were the subject of a 1971 litigation in which our chief state school officer made prompt findings of illegality, mandated changes but has still not enforced his decrees.

Now, in the first year of substantially implementing Public Law 94-142, these patterns are beginning to change because of its mandates. There is no question that the changes are needed (in justice) for children with handicapping conditions, will further the interests of non-handicapped children, and are within our capacity to achieve.

#### NEW YORK'S SPECIAL EDUCATION HISTORY

Early in the century New York innovated in providing special programs to meet the needs of children formerly neglected or excluded from school. As the years went by, it failed to adapt to new thinking. Children who should have been accommodated by the system were excluded. Children admitted to special education were unnecessarily segregated in categorically organized self-contained programs which failed to prepare them to the degree of which they were capable for independent participation in society. Parents and representatives were excluded from the process of determining where and how their children should be placed and there was no due process system to assure consistency or equity in placement.

By 1975, when the Education of All Handicapped Children Act was passed, a State administrative ruling in *Matter of Riley Reid*, 13 Ed. Dept. Repts. 117 (1973), had affirmed the City's responsibility to change some of its practices by assuring to children with special needs prompt evaluation and appropriate educational placements on the basis of due process hearings. As late as January, however, New York City had virtually no arrangements for education of children with handicapping conditions in the least restrictive environment. Only a fraction of the total number who could be expected to have such conditions in a giant city with millions of poor, were receiving any special services. Waiting lists for evaluation and placement exceeded 14,000 and the average time from original notification to the Board of Education until placement in an appropriate program was approximately two hundred fifty calendar days or one hundred seventy working days, nearly an entire school year.

#### IMPACT OF FEDERAL LEGISLATION

Compled with the civil rights enforcement provision of § 304 of the 1973 Rehabilitation Act, Public Law 94-142 has already been a catalyst for substantial change in New York City's special education patterns. At the same time, that New York City was claiming impossibility of compliance it began to make changes anticipating the law's requirements. Perhaps among the most important was the Mayor's appointment of a schools' Chancellor sensitive to issues raised by the new law. The Chancellor expressed this sensitivity promptly by assigning a personal aide to oversee the special education program—an unprecedented involvement of the school system's chief in the special education system. He also commissioned a report by disinterested experts on what to do in the area. Following issuance of that report last winter, the City Board hired a new Executive Director for special education whose past performance in Illinois and elsewhere and published statements of philosophy and implementation strategies indicate commitment to move us toward school-based, cost-effective programming for children with handicapping conditions, primarily in the least restrictive environment.

#### CAUSE AND EFFECT

The preliminary moves toward change would not have occurred without the federal legislative pressure. At least four pending lawsuits relying on 94-142 demonstrate the connection. In one<sup>1</sup> started before the law's effective date, a federal court held that City Board practices of placing children with emotional handicaps in segregated special schools were discriminatory and unconstitutional. Because of Public Law 94-142, the decrees in that case contain specific provisions pursuant to which the Board of Education must develop fair, unbiased procedures for evaluating the needs of such children, develop individualized programs

<sup>1</sup> *Lora v. Board of Education*, 456 F. Supp. 1211 (EDNY, 1978) Final Order 75 Civ. 917, July 2, 1979.

for them, train teachers to deal with their needs, and accommodate them in the mainstream to the maximum extent possible. And they are doing it. The training program has begun. Children are being reevaluated. Segregated schools are being reduced in number. And, interestingly, no one has complained that costs have increased.

Meanwhile, three new lawsuits pursuant to Public Law 94-142 are galvanizing responsive action by the Board of Education. The umbrella suit is *Jose P. v. Board of Education* in which plaintiffs, pupils referred for assessment, complained of the inordinate delays in evaluation and placements. *Amici*, including the PEA, then joined that suit, and with the Court's permission introduced concerns about the qualitative deficiencies in evaluation and placement, deficiencies in procedural due process and parental involvement, and the inadequate programs which ensue. The Court made a prompt finding of liability. Currently, plaintiffs, amici and the Board have been negotiating an order to include the Board's concrete plans for staffing, administration and program to expedite evaluation, assure due process, involve parents, extend child find activities, and provide handicapped children and their teachers support they need to implement effective programs.

#### FEASIBILITY

Much has been said about the impossibility of complying with 94-142's allegedly overbearing mandates. In PEA's view this is another excuse for not getting down to the business of making the administrative and programmatic changes necessary to achieve compliance.

Public Law 94-142 was a well-researched piece of educational legislation compatible with the experience of thoughtful and practical educators, administrators and parent advocates. Its detailed procedures for due process and individualized education programs have already had a positive influence on the fairness and soundness of placement in New York. There is absolutely no evidence that they are more costly or generative of litigation than less protective procedures. The huge waiting lists we suffer are a function of inefficiency and neglect of many past years.

Parental advocacy has already encouraged more diversified and flexible program planning by school officials. In addition to protecting children from inappropriate placements, the early and effective parental participation required by the law can significantly reduce the administrative problems which have contributed to New York City's extensive waiting lists. Informed and involved parents are unlikely to resist well considered recommendations or to permit ill-conceived placements which result in the need for repeated evaluations, and new assignments.

Under 94-142's procedures, services are determined in relation to educational needs. This sounds obvious but is new as an idea in our city. Our board has always evaluated children as a preliminary to special placement but the evaluations tended to focus on the origin and classification of a disability rather than its symptoms and what to do about them. The IEP requirement of 94-142 envisions need-prescriptive evaluation and related program planning. We believe this will produce better programs, better pupil progress and ultimately cheaper, more cost effective diagnosis and service.

#### FISCAL PROBLEMS

We do not share the view expressed by some that compliance with Public Law 94-142 will require vast permanent increases in the funding of either regular or special education. New York's present special education expenditures for segregated, ill-adapted programs are enormous. The careful approach to needs assessment and reassessment and needs responsive programming which Public Law 94-142 requires will yield a better targeted attack on problems and reduce our present extraordinary outlays for segregated facilities, long-distance transportation, non-functional diagnosis services and overqualified experts to perform para-professional functions.

It is clear, however, that a substantial initial investment, especially for planning and training, will be necessary to realize the long-term benefits and savings of such a revised program. Under legal and moral pressures, New York City is committing new funds to this terribly needed replanning and rethinking process and we hope that New York State, which has also been joined as defendant in some of the lawsuits through its Department of Education, will be likewise in the forthcoming legislative session.

The Bureau for Education of the Handicapped, as the federal agency responsible for implementing Congressional policy in this area has made increasingly effective contributions to initiating implementation both by developing and commencing enforcement of sound and detailed regulations and by special planning grants to state and local educational agencies. Special funding, however, can at best, be a drop in the bucket measured against planning and retraining needs.

Congressional appropriations for Public Law 94-142 in the current year fall far short of the authorized level. Such underfunding is seen—justifiably—as a betrayal of the handicapped constituency which looked to 94-142 for vindication of equal rights. It also fans the flames of resentment nurtured by some parents of children not covered by the law and by many teachers and their organizations who fear that legal mandates to serve the handicapped fully which are not backed up by adequate funding will result in detriment to their educational and professional interests. Congress should take the Bureau of Education for the Handicapped's performance as evidence that it can count on good scrutiny of the use that States and agencies will make of full formula funding in accordance with the law and proceed to back up its mandates with the wherewithal to help them work.

#### BROAD IMPLICATIONS FOR PUBLIC EDUCATION

PEA is an advocate for public school students generally. Our concern is that the system serve all its children well. We are completely at odds with the notion, advanced by some critics, that Public Law 94-142 will benefit the handicapped at the expense of the general school population.

In large cities like New York, the problems of educating heterogeneous populations of children, of whom some but not all have problems attributable to poverty and foreign language orientation, are not dissimilar to those of educating children with the special needs, termed "handicapping," in the "least restrictive environment."

Response to these problems is impeded by the same sense of helplessness in the face of different issues and bureaucratic entrenchment which has deferred urban response to the urgent rights of children with handicapping conditions. The most important impact of Public Law 94-142 may well be in establishing the process and models for changes in traditional operating procedures necessary to meet this broader spectrum of needs.

We have an immediate prospect in the plans of New York City's new Executive Director for special education to introduce school-based pupil evaluation and teacher support service teams into every one of New York City's 1,000 schools. These teams, operating under authority of the school principals, are intended to facilitate functionally oriented evaluation and program adaptations, which involve the parents and teachers in defining needs and planning to meet them in the school and community setting.

School-based teams of this character have been widely recommended and endorsed by educators and piloted outside New York City for both special and "regular" education. Yet, it would obviously have been impossible to try them on anything like the widespread scale now contemplated in New York without the impetus of Public Law 94-142.

Injected into our school system under pressure of legislation for the handicapped, they are expected eventually to work on behalf of all children, possibly utilizing funds provided by Congress and the States in other remedial programs on a more productive and cost-effective basis than currently.

#### CONCLUSION

Our experience in New York brings cheers for Public Law 94-142 as a catalyst of long-needed response to the special needs of children in the public schools. The changes it has already instigated are the forerunner of gradual, but major overhaul in the way a large system responds to the child—increasingly in the majority—whose special circumstances, whether disabling, or simply different, require a specially tailored response. These changes have come about not merely because the law is there but because it has been enforced and supported, by BHE and HEW in regulatory activities, by Congress in resulting pressures to change, it and by advocates who have been able to use its detailed guideposts to insist on the adherence to due process and the planning for program changes it requires.



A continued pattern of enforcement and support is necessary if these ultimate reforms are to take place. To the extent that federal lawmakers waver or are perceived to waver—to the extent that compliance requirements or time-table seem to be indoubt—local school systems, like our own, will lack the necessary incentive to overcome bureaucratic obstacles which traditional but discredited practices place in the path of implementation. Congress should back up its mandates with the fiscal support it defined as necessary and appropriate in the carefully detailed and staged authorization levels in the law. Equally important, it must stand fast and require its agencies to stand fast, in the law's monitoring and enforcement.

**STATEMENT OF JEANNE S. FRANKL, LEGAL DIRECTOR AND DIRECTOR, EDUCATION RIGHTS PROJECT, PUBLIC EDUCATION ASSOCIATION**

Mrs. FRANKL. Thank you very much. The projects for which I work are part of the Public Education Association, which is a very old organization in New York City, a nonpartisan citizens' group, chartered by our State department of education to do advocacy, research, and legal work to improve the New York City public education system.

I am really very pleased to be here to be able to talk about the impact of Public Law 94-142 in New York City because we are concerned that New York City with so many children and potentially discoverable children with handicapping conditions, it seems like a kind of impossible place to people in the large outer world. One of the valuable things that Public Law 94-142 has done is to encourage advocates and a system in New York to look to the advances of other parts of the country, which we are willing to concede are primarily ahead of New York in this area, education of children with handicapping conditions.

A very funny thing is indeed happening, namely, that New York's public education system is beginning to emulate what is going on in the outside world, and indeed has gotten itself a new special education director who comes from Illinois by way of Minnesota. We have very high hopes for him.

Mr. STACK. If I may interrupt just briefly, I want to point out that I was raised in Brooklyn. I taught many years at Hunter College, and I wish you would not make it evident that New York is not part of these great United States. Certainly, New York has a special flavor, particularly. So, let us include New York.

Mrs. FRANKL. I appreciate those words. I am a true New Yorker myself, and I was educated in public schools.

Mr. STACK. You have your share of problems, let us say. I am glad to know that you are positive in your thinking about this. I will not interrupt again. Please, go ahead.

Mrs. FRANKL. Thank you.

I am here to express our appreciation and admiration for the congressional policy and the implementation of Public Law 94-142, and to urge that Congress adhere unswervingly to its provisions and give it maximum continued support.

In New York City, Public Law 94-142 has already been the impetus for beginning to redress longstanding patterns of neglect and discrimination against children with handicapping conditions. These patterns were known and they were deplored by concerned educational officials and citizens for many years. They were indeed the



subject of a 1971 litigation in which our chief State school officer made prompt findings of illegality, mandated major changes in city policy, but has still proven unable to enforce his own decrees.

As late as last January, for instance, New York City had virtually no arrangement for education of any children with handicapping conditions in the least restrictive environment. In other words, all our programs—virtually—were categorically segregated by handicapping conditions. Only a fraction of the total number of children you would expect to be found and identified in a city with so many minorities and so many poor children in its public school system were being served at all.

Waiting lists for evaluation and placement exceeded 14,000. The average time from original notification to the board of education until placement in an appropriate program was nearly an entire school year. Now, in the first year of the statute implementing Public Law 94-142, these patterns are beginning to change. Perhaps one of the most significant reflections of that was Mayor Koch's influencing the appointment of a school chancellor who is very responsive to the issues raised in Public Law 94-142. He has taken an unprecedented interest in special education for a school's chief in the city, and one of the things he did do was recruit Dr. Jerry Gross from Illinois, who is moving in the direction of a substantially different program in New York City, including much more prompt and efficient evaluation procedures, and the kinds of administrative changes which are necessary to achieve those.

Now, four pending lawsuits on behalf of handicapped children and their parents have given clout to Public Law 94-142, and I think it is important to know about what they are. One of them is *Lora v. Board of Education* in which a Federal court held that the city practices of dealing with children with emotional handicaps were discriminatory and were resulting in racial segregation. That was started before Public Law 94-142, but the provisions of the order which has just recently been signed, is directly responsive to Public Law 94-142. It requires that the board of education must develop fair, unbiased procedures for evaluating the needs of the children; involve their parents; notify parents of their rights; develop individualized programs; train teachers to deal with the children's needs, including regular classroom teachers; and accommodate the children in the mainstream to the maximum extent possible. In other words, a least restrictive environment implementation.

The board is beginning to do the things in these orders. The training program has begun. Children are being reevaluated. Segregated schools are being reduced in number. A parent-information pamphlet is being developed and revised under the scrutiny of the plaintiff's lawyer.

Meanwhile, three new lawsuits brought under Public Law 94-142 in Federal court are galvanizing response for all handicapped children by the board of education. The umbrella suit, about which you will be hearing more in the future, is *Jose P. v. Board*, in which the plaintiffs, pupils on those enormous waiting lists, complained about the inordinate delays in evaluation and placement. Amici, including the Public Education Association, then joined that suit and with the court's permission because of 94-142 were allowed to introduce the issues of qualitative deficiencies in evaluation, program; deficiencies

in procedural due process and parental involvement, and the inadequate programs which we have. The court made a prompt finding of liability. There was almost no trial investment at all. Currently the plaintiffs, amici, and the board are working out an order. Now, this order is going to give a sanction of contempt of court to 94-142's provisions, essentially. It will include concrete plans for changes in staffing, administration and programs necessary to expedite evaluation; assure due process; involve parents; extend child find activities which are nonexistent in New York, and provide handicapped children and their teachers the support they need to implement effective programming.

I would like to digress a minute in view of what I heard discussed with the last panel to emphasize that the orders that are being developed in the context of these litigations are very sensitive to the concerns of teachers, both in special education and in regular education about the lack of training and support systems for the kind of overhaul of special education that 94-142 contemplates.

I think that our new special education director and our advocates in the context—which of course include me—in the context of these lawsuits will innovate by making training and support for teachers a kind of linchpin of the whole new organization of special education.

In our view, Public Law 94-142 was a well researched, practical piece of educational legislation. The detailed procedures for due process and individualized education programs have already had a positive influence on the fairness and soundness of placement in New York. There is absolutely no evidence that these procedures will be more costly, or more productive of litigation than the procedures in the past.

The huge waiting lists which we suffer, and which we will have to pay money to do something about, are the product of past neglect. Parental advocacy and parental involvement can be expected ultimately to reduce some of the costs associated with the evaluation and placement of handicapped children. The law requires early and effective participation. Informed and involved parents are unlikely to resist well-conceived placements. Our experience is that when parents do get involved, really, the litigation does not go on and on; conciliatory proceedings are effective and possible where the involvement is early enough and carefully enough planned. Also, different kinds of help can be used when one involves the parents in the beginning, and some of those kinds of help are less expensive, para-professional help, social workers instead of guidance counselors, and so on.

Thus, we do not share the view expressed by some people that Public Law 94-142 is going to require permanent, long-term, massive increases in funding. The costliness of some of the Public Law 94-142 mandates, such as more counseling and more resource facilities and so on, is a special cost in New York for everybody at this point. In other words, we are short of those services across the board. One of the reasons we believe we are short of those services is because there is so much administrative waste and inefficiency in the way our system works. There is a tremendous amount of such waste and inefficiency in special education. For instance, it costs \$1,000 a year on the average per pupil for busing services for the handicapped in New York City. If we could restructure our programming so that more children were effectively

educated closer to home, an enormous and wasteful cost could be substantially curtailed; and there are many other examples of huge over-lays of administrative and bureaucratic costs that could be reduced.

But I do not mean to say you can do it overnight. It is partly for that reason that we are very concerned about the failure of Congress to fully fund, in accordance with its authorization.

Mr. STACK. Are you referring to busing to achieve racial integration?

Mrs. FRANKL. No, no. I am just referring to busing of children with handicapping conditions to the isolated, categorically organized special programs in schools far from their homes that are available to them.

Mr. STACK. I am sorry. If they were in the local schools they would save the cost of busing.

Mrs. FRANKL. That is right.

Mr. STACK. I did not quite follow that.

Mrs. FRANKL. And let me say, if we were following the evaluation and individualized education plan procedures that 94-142 contemplates fully, we would be able to make much more sensitive assessments of children's needs, and make much more targeted accommodations to them more frequently in the local schools.

What is happening now is that the evaluation system is very elaborate, very routinized; it is dedicated to a diagnosis of origins and names of what the child has, rather than a needs determination. To the extent that we have introduced individualized education planning in accordance with 94-142, it is kind of an add-on that follows all this elaborate ideological diagnosis and it is not influential in determining the child's placement. The children continue to go to these very categorical, segregated special programs at vast costs. It costs us more, according to a recent finding of our controller, to educate handicapped children in our public schools than to pay for them to be educated in private school. In the case of the severely handicapped child, the disparity is really very large.

So, we are in a sense looking to effective implementation of 94-142 to develop a more efficient, responsive system. We believe that the costs will ultimately go down. But in the interim there has to be a tremendous amount of rethinking, planning, and retraining. The Federal contribution is indispensable, both because of its dollar value and because in its absence it just generates tremendous resentment, as you are undoubtedly aware, for Congress to have mandated such sweeping changes and then seems to be withholding its portion of the financial support.

I want to make one more point that is very important to New York City and also very important to the Public Education Association. We are not an organization that was constituted specifically to represent handicapped children; we represent all children, and it is very crucial to the fulfillment of our mission that all children be equally well served by the public education system.

One of the reasons that we became interested in Public Law 94-142 was because of a sense that its provisions would be, if implemented, tremendously productive in establishing models for addressing some of the problems that we deal with for all children in New York. In a sense, the whole New York City school system is something like trying to educate children with special needs in a mainstream setting because we have a very heterogeneous population, and we have many

poor children; many children whose native language is not English, and so forth, whose needs must be termed special. And then we have many children who do not have those special needs and they are educated in the same schools. We have to come to grips with a way to do it. The Constitution and the law as currently interpreted do not permit us to segregate children with those kinds of difficulties any more than they permit us to segregate unfairly handicapped children.

We believe that the individualized programming concepts, the due process concepts, the whole requirement of Public Law 94-142 that the child's individual needs be determined and accommodated carries a message of the education of all children in the city. We have an illustration of exactly how we think this is going to work in a pragmatic way because our new special education director in response to pressures from advocates and experience elsewhere in the country is planning to introduce in every single one of the 1,000 schools in New York City a school-based team under the authority of a school principal which will evaluate the needs of children cooperatively; it will include the child's teacher, a principal or an emissary, guidance personnel, evaluators of both behavioral and intellectual problems, and it will plan for the child's needs to the extent possible in the schools; and it will also work with the teachers to provide some of that help in achieving common sense and other kinds of solutions that one of the panelists talked about earlier.

It is a tremendously hopeful innovation and could change the shape of education in all our schools. It will be injected as a result of 94-142. It will almost certainly, however, become an instrumentality for educating all children; and we indeed think that some of that teamwork for other children will eventually get financed by other kinds of Federal funds, like title I and ESEA, and will prove a much more effective use of compensatory education funds.

So, we think that far from working to the detriment of the non-handicapped child—as some people fear—94-142 will become the model for improvement in the education of all children. So, I guess, our message to this committee and the Congress is, thank you, and keep up the good work. Give us financial support and the support of your moral authority, and communications to BEH and so forth, the other agencies, to continue moderating State and local education agency performance.

Mr. STACK. Thank you, Mrs. Frankl. Your testimony puts me in nostalgia. I graduated from James Madison High School; taught at Hunter College, left to go to Florida 25 years ago to retire, and appropriately, I am now serving in Congress. [Laughter.]

In fact, I am still a member of the New York Bar. It is nice to be related to Congress. You did say in your remarks, if I interpreted your statement correctly, that you do perceive that Congress has put a law on the books, 94-142 and then, as we so frequently do, we did not properly fund it. Now, is that a fair interpretation of your remarks?

Mrs. FRANKL. It is a fair interpretation, although I must stress that I do not regard funding as the primary issue here. But we do feel that Congress should fund it fully, in accordance with the authorization.

Mr. STACK. I was not about to suggest that was primary. You know, I am always interested in the perception that others have of this great body. You see, when I think of New York City's educational system,



I realize that if this 94-142 will work in New York, it will work any place. [Laughter.]

That is basically what I said earlier when I suggested we include New York in the union. It does have some unique characteristics, certainly, its population is heterogeneous, to put it mildly, and it has very many unique qualities.

When I think back, about the time I was leaving New York, the problem seemed to be a "blackboard jungle;" the fact that it became at that time very difficult to enforce ordinary discipline in the schools--at least, I was led to believe that was the case. Some of my friends who are now judges and taught in the New York school system, they escaped because they related to me that they found it difficult to keep order. One young man in particular now is a country judge in my area. He was a teacher in the elementary school and he told me tremendous stories of his experience.

Now, you do feel this has a reasonable chance of success with your new chancellor?

Mrs. FRANKL. Yes; we do feel so. The reason we feel so is that we think the premises of the legislation are fundamentally sound, and they are also focused on where the real problems lie, and that is in the classroom with the child, and with the teacher, and with the mix of child and teacher, instead of as many types of reform have been, on some great abstraction that has been incapable of implementation.

Mr. STACK. Is it too early to really determine the degree of parental response, parental involvement? Is it too early to say whether you are going to be able to do that effectively? I am thinking in terms of language barriers and things of that sort. Are you going to be able to bring those people forward? And you mentioned other problems.

Mrs. FRANKL. We have already encountered some of the difficulties in getting the parents to be involved. One of the things that each of the orders and each of the Federal cases now pending will do is make very detailed and specific provisions for the way and the timeliness in which the board of education must try to involve parents. We hope for some surrogate parent provisions, too.

The other side of that coin, though, is that there is already much more parental involvement than there was before, and that advocates and representatives with the guidelines of the law are able to give parents a reason for being involved, and are able to pursue the issues. We have had an unprecedented number of State administrative decisions about parent rights and student rights. For the first time there is beginning to be a body of very clear State law and instructions as to how to deal with parents. This will enable the board to begin to institute routine procedures for dealing with parents. They are going to put out a new handbook that will notify parents of these rights.

We are becoming increasingly used to dealing with our language problems in New York. I mean, everything goes out now in two languages and we have a list of about 17 or 18 languages that everything is going to go out in. So, I think it is achievable.

Mr. STACK. That is not a new problem in New York, obviously.

Mrs. FRANKL. Right. But the mandate of really doing something about it is only in the last decade.

Mr. STACK. How do you find the area of teacher training is working now, in this regard?



Mrs. FRANKL. Teacher training is really at its inception, and I do not think we have much to go on yet. I think one of the things that is going to have to happen is that the training in the universities is going to have to be changed. Our city university is doing the training program in the *Lora* case, and presumably they will develop a kind of curriculum that they will be able to introduce in the preservice training as well as the inservice training.

The union is beginning to consider some interesting work in this area. Also, I do think that the concept of the school-based team that Dr. Gross is going to introduce has inservice training built into it and is probably the most desirable and efficient way to proceed. That is, the people in the team are in the school and the inservice training is ongoing in conjunction in developing programs for individual children.

Mr. STRUCK. Thank you very much. Mr. Erdahl, do you have any questions?

Mr. ERDAHL. Yes, just a couple of brief questions, Mr. Chairman. I also want to thank Mrs. Frankl for her fine testimony here today. She has made a very learned presentation here.

One thing you mentioned is that in New York City, as the chairman is well aware, you have a heterogeneous group and various languages. Do you consider, or does New York classify children not speaking English as handicapped?

Mrs. FRANKL. No, it does not. But a recent law suit by the Puerto Rican Legal Defense Fund maintains what we have known all along, which is that it does not provide native language programs for handicapped children; also, that one of the consequences of evaluation procedures that do not take account of language barriers is that children may be inappropriately classified as handicapped—not specifically because of the language problems but because the impact of the language problem on their performance on tests is not taken account of. That is the subject of this litigation.

Mr. ERDAHL. I have just been back and forth in other committee meetings dealing with the so-called Truth in Testing bill. A fellow from a Hispanic group testified today that it was of great concern there. This is related to tests and aptitude tests getting into post-high-school educational work opportunities. We are looking at that problem as well.

You mentioned at several points in your testimony about the scary backlog when you see the number of student—that probably need help that are not getting it. How are you personally, the city of New York, or whoever it might be trying to solve that problem and also, is there a possibility of litigation dealing with what really constitutes adequate program evaluation?

Mrs. FRANKL. Well, the litigation is under way. The way we have been dealing with it—

Mr. ERDAHL. There is a court case pending now?

Mr. FRANKL. There is a court case pending, and that is the *Jose P.* case, and it is specifically on the waiting list.

Now, even before that suit was brought, and certainly in response to Public Law 94-142, our State education department threatened and temporarily, indeed, did withhold funds from New York City until they got themselves together to do something about the waiting list. So, they instituted a crash program. They took psychologists who were

serving children in a classroom and moved them into evaluation teams, and undertook to eliminate this waiting list of 6 months. They miserably failed. The waiting list is so very large. And not only did they miserably fail, but the evaluations that they did were really not suitable to be used in a new system that would entail the placement of some children in a least restrictive environment because, as you know, they are supposed to give their reasons for the restrictiveness of the placement.

Since we had no placements other than completely segregated placements, the evaluations will probably have to be redone to a degree.

But in the context of the Jose P. lawsuit, it is expected that the court—Judge Nickerson, who has appointed Judge Marvin Frankel—will enter a decree consented to by the board at least in part, which specifies certain staffing levels to be maintained until the waiting list is eliminated. Also, that the evaluations done by the staff be in full compliance with the requirements of 94-142.

Mr. ERDAHL. Thank you, Mrs. Frankel. Another point you mentioned was that your organization, I think, had a cost study of the variance of educating handicapped children in special settings, vis-a-vis their educating in so-called normal settings. Is that in such a form that you could provide the subcommittee with it? I think that would be very helpful.

Mrs. FRANKEL. Let me qualify. It was a report by Harrison Golden, the controller of the city of New York. We would be happy to get the subcommittee a copy of that report.

One element was the average per capita cost of educating the child who was not getting special services compared with our costs of educating handicapped children in the public school system, and a second component was a comparison of the costs of educating a handicapped child in the public school system as compared with the costs of educating them in a special private school for handicapped children. Of course, the shocking fact was that the child could be less expensively educated in the private school for handicapped children.

But I mentioned that point because it illustrates to me that there may be ways, there should be ways, of reorganizing and revising our approach to educating handicapped children, which makes it less costly to do that in the public schools.

Mr. ERDAHL. I think that study would be helpful to the committee. Thank you, Mr. Chairman.

Mr. SPACK. Thank you, Mr. Erdahl. Thank you, Mrs. Frankel. We do have five witnesses of whom we should hear, and some do have problems with getting planes in the midafternoon. So, I will cease and desist from reminiscing in the future.

Mr. Bogin, you are here in Washington, so you have no problem in that respect. We have your statement here. Would you care to summarize it, please?

[The prepared statement of Mr. Bogin follows:]

PREPARED STATEMENT OF MATTHEW B. BOGIN, ATTORNEY, WASHINGTON, D.C.

I'd like to thank the Chairman and the Committee for this opportunity to present my views on the Education for All Handicapped Children Act, P.L. 94-142. I am an attorney who has been in private practice since January of 1978 and has had the opportunity to represent approximately 45 handicapped children and

their families in all jurisdictions in the metropolitan Washington area in cases under the Act and in the District of Columbia its predecessor, *Mills v. The District of Columbia Board of Education*. I should add that my practice consists in large measure of trial work with emphasis on the civil rights and liberties area and it is this background that I bring to my work in the area.

The Act was passed by Congress in 1975 to insure that all handicapped children were given a free and appropriate education. My role is to interface with the system in cases where there are problems. Thus I must admit to having a somewhat skewed perspective on the system. I must at the outset say that the bleak picture I paint is not quite uniform but that in my experience only about half of the families of handicapped children have problems obtaining special education.

Over the three and a half years that I have been involved in special education advocacy, I have noticed several trends. One is an ever-increasing amount of hostility between those in the educational systems and those on the outside, i.e., parents, attorneys, educational consultants, and the like. In the past year this has accelerated, and I have been exposed to more hostility than ever. Most school systems have come to view the special education process, including the developing of an individualized educational program (IEP) and the placement of a child in a special education facility, as an adversarial situation. Further, since in my opinion these individuals are not used to dealing in adversarial situations, the dispute rapidly becomes personalized and thus a contest of wills develops between those on the outside and those on the inside. Of course, lost in all of this is any desire to provide an appropriate program for the child in question.

I have several ideas as to the cause of this hostility. First of all, there is a real fear on the part of school administrators of a diminution for their authority, through sharing of the decisionmaking process. They feel that if they allow those from outside the system to participate fully and meaningfully, then there will be less justification for their positions and ultimately, in my opinion, they fear that they will be replaced. Thus the institutional prejudice of school officials prevents them from fully complying with the provisions of 94-142.

Secondly, I feel that on the part of many school system employees there is a real prejudice against outsiders. School system employees feel that they have been trained as educators and they will not tolerate those whom they perceive as unfit to propose programs to them. This results in a rapid hardening of positions by school system employees who prefer to stick by hastily-made decisions rather than appear indecisive to outsiders. As the prospects of compromise decreases the level of animosity between school system employees and parents increases correspondingly.

Thirdly, Proposition 13 and like measures, by cutting sources of revenue, exert ever growing financial pressure on the schools to cut back programs for the handicapped. This financial squeeze means fewer placements for handicapped children in private facilities, fewer teachers and aides assigned to programs for handicapped children in the public schools, and fewer administrators to develop and implement programs for the handicapped. Unwilling to admit that financial considerations increase their reluctance to fund residential placements, school officials hide behind other guises, again leading to animosity and hostility between the school systems and the parents.

I have been speaking mainly of the initial steps of the process developed by 94-142. My experience has shown that it is much better for all if the school system and those working for the handicapped child can agree on a program without the necessity to invoke the due process hearing procedures contained within the law.

Parents dread the hearing procedures, with some justification. I have seen parents savaged by school system employees with charges of "wanting to dump their children on the public schools," "neglectful parents," and "irresponsible parents," as just a few examples. While this obviously should play no part in the special education process, it obviously occurs. In fact, it is my experience that whenever parents seek to fully avail themselves and their children of the rights granted by 94-142, they are labeled almost without exception as at least pushy if not "crazy." Again, this is a sign of the resentment that most school systems have towards parent involvement.

Thus, there is a lot of lip service paid to the letter of 94-142, but unfortunately very little real attention paid to its spirit. This leads to situations such as having a long and detailed IEP for a child which unfortunately bears no relationship to the child's problems. School systems rationalize that they have followed the

law's directions when they have failed to comply with it. Again, a rather unsatisfactory philosophical approach.

A very major problem with implementation of 94-142 is that school systems uniformly take an inordinate amount of time to "process" special education children. Cases routinely drag on for three or four months, even in the simplest of factual situations. Most schools and their employees are used to operating on nine-month calendars, so that if the system does not process the child for the coming school year by the end of the past, there is very little chance of getting anything accomplished over the summer. This may vary somewhat from jurisdiction to jurisdiction, but unfortunately in large measure it is true. Thus, very often parents are faced with the prospect of September arriving and their child not being in school.

To some extent this was anticipated by the drafters of the legislation, who anticipated that problems such as this might occur and required that a child be placed in his last placement until the completion of the due process period. However, this does not completely solve the problem, because there are occasions where the child has completed, for example, an elementary program and must move on and, thus, is being harmed by being returned to his past program; or a program which is run by a private school and the public school system refuses to guarantee funding. Some school systems take the position that they will allow the child to return to his last placement, but if it is privately run, they will not supply the necessary funding commitments. This is obviously in violation of both the letter and spirit of the law, and yet it continues.

I have pointed out to the Committee many general shortcomings in the implementation of the law. I should add that most of the shortcomings in implementation occur on the administrative side, and that those who teach handicapped children are for the most part concerned about the children's welfare and their progress. The battle seems to be placing children in the programs, and not so much the quality of the programs once the children are there.

What I have been describing so far has been mainly experiences that are common to all jurisdictions. However, the District of Columbia Public Schools' problems in implementing 94-142 are much more pervasive than any where else. I should add that at the present time I am counsel of record in three lawsuits against the D.C. Board of Education with a fourth soon to be filed. These cases all involve the District's refusal to follow either the procedural safeguards or the substantive standards contained in the Public Law.

At the present time, D.C. Public Schools' position despite what seems to me to be the clear mandates of the law and court orders in approximately six different lawsuits is that they will not place a child in need of special education in a residential placement. This policy is official and not subject to any exceptions.

There is no excuse for this type of behavior on the school system's part. It seems to me to be an outright statement of disrespect for the rights of handicapped children and their parents, defiance of Congress, and deliberate violations of court orders. To make matters worse, the public schools seem to be in effect getting away with this behavior. I have spoken unofficially to people in the Bureau of Education for the Handicapped who have told me that their hands are tied, because the only effective sanction is to withhold funds and that would entail a great hardship on those fortunate District residents who are getting special education. The courts, unfortunately, have not been able to stop this violation of law in any systemic fashion.

One can imagine the plight of a family, for example, of an eighteen-year-old autistic child who needs residential education. I represent such a family and we have been fighting the District of Columbia Public Schools for a year. The lower echelons of the school administration recognize the child's need for residential placement, and they made several referrals. However, due to circumstances beyond everyone's control, these attempts were unsuccessful.

Then the higher levels of the administration refused to continue searching for a residential placement. We invoked the due process procedures of the Act, had a hearing and were successful. At that point the public schools decided to deliberately ignore the hearing officer's decision and take no action. We were forced to file suit in the United States District Court here and my clients were then subject to vicious personal attacks by school personnel. I should add that several years before the public schools had in effect begged to place this child in a residential school and the parents had tried (very successfully, by all accounts) to educate the child in a special day school and with work at home. If, recognized, however, that when autistic children enter late adolescence



they become subject to greater stresses and therefore are much more difficult to educate. They need a consistent 24-hour environment to which they can adapt in order to maximize their educational growth.

During the course of the litigation many interesting facts about D.C. Public Schools came to light. We were informed that there was the policy about residential placement. The school system charged that only sophisticated and informed parents were making use of the Act and thus the schools were under no obligation to comply (a specious proposal, yet one actually put forward by the Board of Education). This story is only one example of the callous treatment meted out by the District of Columbia Public Schools to handicapped children and their parents.

Part of the rationale used by the D.C. Public Schools and other school systems to do as little as possible for handicapped children is to dispute the definition of the term "appropriate" as used in Public Law 94-142. Uniformly, I have found that public school systems interpret this term to mean minimally adequate, a concept that I cannot believe would be enacted into law by Congress. They are of the opinion that if the child receives some sort of education it is "good enough." Clearly this is absurd, yet it is used time and again to deprive handicapped children of their right to an education.

If I had one suggestion for improvement in the Act, it would be to more specifically define the terms "appropriate" and "least restrictive environment." These two terms, which I realize are the keys to the legislation, are always invoked by school systems to deprive children of the education that they need. The schools invoke "least restrictive environment" whenever they don't want to spend the money to set up a special program for a group of children who require it. They always fall back upon this term to defend their placing handicapped children in inappropriate situations with "normal" children. Again, this is a distortion of the law that I'm sure was not intended by the drafters of the legislation.

I feel that, as I said before, definition of these terms would prevent many of the unfortunate problems which plague the education of handicapped children. It should be made clear that these terms are for the protection of the children and their parents, and not for use by the school systems to justify less expensive placements, less rigorous programs, or lack of concern for a child's educational welfare.

With this help in the legislation, I feel that those of us who work with these children in an attempt to better their educational lives will have new tools with which to continue the struggle to ensure that the handicapped receive the same treatment as the rest of society.

Thank you very much.

#### STATEMENT OF MATTHEW B. BOGIN, ATTORNEY, WASHINGTON, D.C.

Mr. BOGIN. Certainly. I would like to just pick up on a few points that you have raised with the previous panel and Mrs. Frankl, rather than summarizing my statement.

Mr. STACK. Your statement will be inserted in the record in full.

Mr. BOGIN. Thank you.

I should say that everything is qualified by my experience, which is to represent parents and children who are having problems on an individual basis with the school system throughout the Metropolitan Washington area. Therefore, my perception is that of someone trying to work out the problems between the parents and the school system, rather than seeing cases where the system has functioned efficiently and well.

You raised a point about better educated parents taking advantage of the act. I think that is very true. I think the blame lies, in my experience, with the school system because the procedures set up, particularly in the District of Columbia and throughout the area, are so rigorous that only the better educated parents or the more sophisti-



cated parents are able to complete the paperwork in order to initiate placement procedures.

For example, in the District of Columbia a parent has to go to the local neighborhood school and fill out a form; then speak with the principal; then go to the regional office, and wind his way through the system. Unless one has the sophistication and the education to deal with the individual on the other side of the table, the school system, I have seen it in many cases that the parents just give up.

So, the problem lies on the school system's end because they make it very difficult for parents to obtain a satisfactory placement.

In addition, it seems that there is some strong correlation between better education and greater economic wealth, and that allows parents to receive outside evaluations for their children. They can take the child to a private psychologist, a private educational consultant and be able to refute what the school system says. In my experience that is very important because I must confess, uniformly school system testing and evaluation tends to support the school system position that in most instances it is not completely correct. I would not want to make any accusations and I am not sure which is done first, but there is always that question. Therefore, the better educated and wealthier parents are able to receive those services.

In my experience there are free services such as that located in the District of Columbia and elsewhere, except that together with everything else, those are overcrowded and overused, given the staff resources. Therefore, if the committee were so inclined, I think that a study and perhaps some amendments to allow parents a certain amount of money to obtain outside services would certainly be in order. I think that would protect the rights of both the parents and the children, and allow perhaps some more informed positions on placement.

Another issue that you have raised and that was raised in some of the litigations that I have been involved in is the meaning of appropriateness, appropriate, and least restrictive environment. Uniformly, I have found that school systems use the term "least restrictive environment" to justify a less expensive, less intensive placement for a child who needs a more expensive, more intensive placement. There is a great reluctance on school systems to get the least restrictive and appropriate environment together. They will say, "We cannot send this child to the school that he needs because it is not the least restrictive environment." It is not a position that is consistent with the courts' interpretation of 94-142 nor the committee's interpretation, but it happens every day. Again, it is very frustrating for parents to have to listen to that when they have the understanding that term is in the law to protect them, not to protect the school system.

I do not know what legislation can do in that area. I think the terms are fairly clear. The definition of "appropriate" is of course an individualized definition; but school systems have a great reluctance to take "appropriate" and "least restrictive" environment together and use it to justify whatever placement they so desire.

The funding question also is one that I do not think has raised very many practical problems in my experience. There always seems to be money for programs. The question is, what program will the individual child receive. In the District of Columbia I am involved in unfortu-

nately three cases where parents have had to sue to force the school system to give the child a residential placement on the theory that it was absolutely essential, let alone appropriate for the child. The school system's defense is: "That is a restrictive environment and therefore we cannot do it." The financial defense was never raised. In fact, in some instances the day placements they proposed for the children were more expensive than the full-time residential placements. They are perfectly willing to spend the vast sums on 6 hours a day, but they were unwilling to do it on 24 hours a day, on the theory that to place a child in a residential placement was restrictive.

So, I think that funding is perhaps an issue on a systemic basis, but there is very little which trickles down to the individual.

Mr. STACK: That is true in the District of Columbia.

Mr. BOGIN: It is also my experience in the State of Maryland and the State of Virginia. While I hate to generalize from that throughout the Nation, I think that it seems fairly clear from other people that I have spoken with in other lawsuits, that that in fact is the case.

To summarize, Mrs. Frankl was hopeful in saying that lawsuits in New York have been effective mechanisms for galvanizing action. Unfortunately, particularly in the District of Columbia, the opposite has been true. Approximately a year ago there was a suit threatened which by itself ameliorated the problem particularly of residential placement in the District. Subsequently, the parents have had to resort to a suit in Federal court here to try and obtain necessary placement for the children. Instead of galvanizing action, the ever-increasing flood of litigation actually has produced more, and more, and more resistance on the part of the board of education. So, while she is hopeful about changes in the city of New York, I am much less hopeful in the District of Columbia particularly because it seems we are retreating.

Mr. STACK: Thank you, Mr. Bogin. Mr. Erdahl, do you have any questions?

Mr. ERDAHL: If I could just pick up, Mr. Chairman, on the last comment. How do we reverse this backward slide? What can be done?

Mr. BOGIN: I am not sure. I thought that perhaps I would get asked that question; that is why I made that statement. I have spoken with the people informally in the Bureau of Education for the Handicapped and they are interested in the situation. But again, they are in a difficult position because their ultimate sanction is to cut off funds for special education. I do not want to give the impression that there are not children being served in the District because there are, and a lot of them. Therefore, to cut off those funds would jeopardize whatever programs those children are receiving.

I think that, unfortunately the only remedy that I see is more and more litigation, which is expensive both financially and emotionally for parents. The only suggestion that I have for the committee is to do what we have done with the Civil Rights Act, which is to allow those parents who had to resort to lawsuits and have been successful to be able to recover the costs from the school system. The Civil Rights Act was amended to provide for that, and I think it would be a logical succession to have such an amendment here.

Mr. ERDAHL: I am not saying that might be something that is not necessary, but I think—and I do not happen to be a lawyer, so I speak

with a certain bias—there is a fundamental flaw in the system if we have to resort to litigation to get what we conceded is a right of people.

You made a comment—and I have tried to read your statement as you were making it, "I might say, at the outset that the bleak picture I painted is not quite uniform and that my experience is that only about half of the families of handicapped children have problems obtaining special education."

Good grief, that means that about half of them do have problems. I think that is a serious indictment, certainly, of the implementation of the concept. Hopefully, the case of people requiring the help of a lawyer to get what their child needs would be the rare exception, rather than, as you pointed out, applying in too many of the cases.

Mr. BOGIX. I agree with you. One would hope that the aid of a lawyer would be the absolute last resort, and in many cases the parents' resorting to a lawyer or threatening to resort to a lawyer all of a sudden produces changes that they themselves were unable to produce.

I should add that one does not always need a lawyer, there are parent advocates who have been very successful in obtaining placement. Ultimately, the only way to protect one's right, I think, is through the court. It is unfortunate that so many parents, to my knowledge, have been forced to do so.

Mr. DEAN. I was reminded of a bill pending over in the Senate that you may be familiar with, S. 446, which would include handicapped under title VII of the Civil Rights Act. It would amend title VII to include discrimination in employment of the handicapped.

Do you think that passage of this would really help the situation in changing attitudes?

Mr. BOGIX. In changing attitudes I would hope that title VII, and I have not specialized in it, but I have had some experience and talked to others, title VII has had success. I can certainly see no harm in the handicapped categorization as to that act. As to the benefits, I would have to think about it and study it. But I certainly would encourage anything that would allow handicapped children and their families to broaden their rights and have more positions of strength.

Mr. STACK. You are in private practice?

Mr. BOGIX. Yes, sir.

Mr. STACK. And you have a special field in this respect, your practice is confined to special advocacy for education?

Mr. BOGIX. No; I would not say that. I got involved because I had one client who had a problem; and there is a network of parents who have handicapped children.

Mr. STACK. What I am leading up to, how would you identify the type of families that you are representing, or other lawyers are representing by, let us say, education and economic background, and so forth? These people have to be able to pay a lawyer.

Mr. BOGIX. Unfortunately, that seems to be the case. I mean, there are free legal services and I have been involved in providing free services, but obviously, one cannot make a living out of doing that. So, that was the first point I tried to cover, that if one needs to resort to resources outside the school system, one has to be in a position to afford it. So, uniformly the clients that I see are able to in some measure compensate me and also the experts that they need to document a case.

In many cases the experts, the testing services and everything else, amount to much more than the legal fees involved.

Mr. STACK. I think your testimony points out some interesting problems that I think we should consider. Certainly, legal representation is one of them.

I would also like to point out in respect to lawyers, they really are the "lubricant" who makes the whole process function. Without any lawyers, there would be no organized society or civilization. [Laughter.]

Mr. ERDAHL. If this got back to the State Legislature of Minnesota they would want to use that to stir up the water and make it muddier.

Mr. STACK. I am sure that both of the witnesses will agree with my observation.

Mr. BOGGS. Certainly. [Laughter.]

Mr. STACK. We do thank you for your testimony, unless you have anything else.

Mr. ERDAHL. No. I think we have had some very helpful testimony today.

Mr. STACK. We thank you very much.

Mrs. FRANKL. I would like to say, if it is not too presumptuous, that it has been a great pleasure to appear before the subcommittee because there really is a feeling that you take a very deep and thoughtful interest in the issues, and I think that makes it all worthwhile to come back from New York.

Mr. STACK. Thank you.

Now, we have another panel. Mrs. Taggart from Seattle, Washington. Mrs. Crawford, Mr. Salett, and Mr. Kingsley.

Mr. ERDAHL. I have an amendment on the floor, maybe you would give staff permission to ask some questions. I would appreciate that.

Mr. STYCK. Mr. Salett, if you would proceed.

[The prepared statement of Mr. Salett follows.]

PREPARED STATEMENT OF STANLEY SALETT, SENIOR ASSOCIATE, NATIONAL COMMITTEE FOR CITIZENS IN EDUCATION

Mr. Chairman, members of the Subcommittee, my name is Stanley Salett, Senior Associate of the National Committee for Citizens in Education.

The NCEE is a non-partisan, non profit organization dedicated to increasing citizen involvement in the issues and policies of our nation's public schools. We work with a network of over 325 parent, citizen groups which are active in public education at the local and state level. One of the beliefs we share is that decisions affecting the lives of children should be open to public scrutiny.

We have found that a growing body of research demonstrates that parental involvement in school activities has a positive effect not only on school policies, but on students' achievement as well. Over a decade ago, for example, James Coleman made his now-famous report to the Department of Health, Education and Welfare, which showed, among other things, that student achievement is higher in schools with active parent organizations. And a 1973 HEW study found that two key factors in academic success were students' and parents' expectations, and "the extent to which parents engaged in activities supportive of these expectations."

Our experience with parent/citizen groups and our research of the literature on the effect of parental involvement leads us to conclude that it is indeed wise policy for the federal government to encourage parent participation in public schools. Consequently, we strongly support the provisions in the law requiring involvement in the development of individual educational plans for their handicapped children.

Given this background, NCEE felt that a specific monitoring of these parent participation provisions was required. So, in November of 1978, together with a research team based at Ohio State University and a coalition of more than 400

local and state voluntary organizations, we conducted a survey to examine the parents' role under the law. Our intent was to try to answer questions such as:

Are affected parents aware of the law and their rights under it?  
Have schools notified parents that their presence is required at an IEP meeting?

Has a meeting been held this year, and how were parents treated at it?  
Are educators helpful? Are they listening to parents?

Is the program resulting from the IEP meeting based on what a child needs of on what the school system has to offer?

Do parents know they can appeal IEP's made for their child?

Our primary source of information has been nearly 2,400 parents of children with various handicaps who took the time to complete our survey. Our survey has not been funded by the federal government, but is supported by the George Gund, Field, New World and Hearst Foundations. To our knowledge it is the only national survey focussed solely upon parent participation in Public Law 94-142.

In addition to surveying individual parents, we are also reviewing the Bureau of Education for the Handicapped's state administrative reviews to identify IEP-related areas cited by BEH for corrective action, and then contacting each state for status reports.

For today's hearing, I would like to discuss the preliminary findings of the parent/citizen survey, and our analysis of the BEH program administrative reviews. If you have no objection, Mr. Chairman, I would like to have entered into the record a copy of the questionnaire and the responses tabulated. Over 2,300 parents from 433 school districts in 46 states have responded to the survey so far.

First, considering that Public Law 94-142 has been fully in effect for only one school year, the IEP process seems to be working *basically* very well.

Nearly 60 percent of the parents surveyed report that an IEP meeting has been held within 30 days of their children's evaluations. Only 6 percent report that a meetings was never held.

Over 70 percent of the respondents said that the information about their children's evaluations was "fair and useful," that educators presented the IEP in understandable language, and that there was an opportunity to ask questions.

Although children were mostly absent (only 18 percent were reported present), the meetings were well attended, by 83 percent of the responding parents, by 77 percent of the teachers, and by 66 percent of other school representatives.

Of the parents surveyed, 70 percent reported that the IEP's did contain important basic information: annual goals, short-term objectives, specific services to be provided, present performance levels, and the dates that services were to begin.

And over 3/4 of the responding parents felt adequately informed about the IEP and felt that the IEP generally fit their children's needs. Only 5 percent refused to approve their children's IEP's.

I think these figures indicate that the idea of an individual educational plan for each handicapped child, drawn up in consultation with the child's parents, has had success. Such a massive undertaking has required an enormous amount of time, energy, and commitment from everyone involved—teachers, administrators, and education officials as well as parents—and it is indeed a tribute to the wisdom of the Congress that it has worked so well.

On the other hand—there is always another hand—I think it was President Truman who said that what he needed was a one-handed advisor—there are some substantial problems.

Parents are not participating as full partners in the development of the IEP's. A majority (62 percent) of the parents surveyed reported that the IEP's were completed before the meeting.

Nearly 80 percent reported that the IEP's do not contain ways for parents to check their children's progress.

80 percent reported that the IEP did not indicate how much time the child would spend in a regular classroom setting.

In 40 percent of the cases, no specific date was set for reviewing a child's progress, and in a third, no mention was made of how, when, or by whom, a child's progress would be checked.

Parents are not being prepared to participate in the IEP process. In fact, over half the school districts covered in the survey do not have a program to prepare parents.

Information on how to appeal a contested evaluation or IEP was not made available to nearly 46 percent of the parents surveyed.



And while the most basic requirements of the IEP have been met, still a full 45 percent of the parents reporting felt that the annual goals set in the IEP did not fully meet the educational needs of their children.

A further analysis of our data shows that the parents of mildly handicapped children are generally more satisfied with IEP procedures than are the parents of severely handicapped children. Also, we found that smaller school districts (those serving fewer than 5,000 children), as well as parochial schools and state-operated programs, are having greater difficulty in meeting IEP requirements.

Our colleagues at Ohio State University have also finished a preliminary content analysis of the Program Administrative Reviews conducted in 31 state departments of education by teams from BEH from 1977 to 1979. Their major findings are that in 75 percent or more of these states:

Requirements as to IEP content and procedures are inconsistently applied by local education agencies.

Parent involvement on any substantive and documented basis is lacking.

And state monitoring of IEP development and implementation is notably weak.

Obviously, our study of parental involvement in Public Law 94-142 is far from complete. Even now, more surveys are being returned, analysis of state efforts is continuing, and a survey of more than 400 parent organizations is under way. We would be delighted to keep the Subcommittee informed, Mr. Chairman, of our further findings, and to be available as a resource as need arises for additional information.

We do, however, feel that a few recommendations may be made on the basis of the findings so far. In general, we can conclude that, in both legislation and regulation, the law offers too little guidance on public participation at the local level. Other major federal education programs that were devised to serve a specific category of children in need—Titles I and VII of the Elementary and Secondary Education Act, the Emergency School Aid Act, and the Vocational Education Act—recognized the importance of an outside independent committee or council, composed of at least a majority of parents of the children served, to provide guidance and to hold local officials accountable for the use of federal funds. Despite the money and commendable avenues for individual parent involvement required in the Education for All Handicapped Children Act, there is no requirement in the law concerning local parent councils. It is our experience that, in general, when state and local education agencies seek outside opinion, if they seek it at all, they work only with a very select set of people and often in a very closed way. Accordingly, we would recommend that:

A district-wide advisory council, composed of a majority of parents of handicapped children representing each school with a program, be required for every district receiving funding under the law, and given the following responsibilities:

1. To provide basic information on Public Law 94-142 to all parents of handicapped children in the district, including information on how to appeal an evaluation or an IEP.
2. To review the district's plan for implementing Public Law 94-142 and to hold public meetings on the plan.
3. To develop and maintain a roster of interested members of the public and affected agencies, including parent/citizen organizations, which should be routinely informed of the council's activities.
4. To encourage and assist school personnel in a parent training program to acquaint parents with their rights and responsibilities under the law, to provide parents with information on the publication, development, and use of the IEP, and to answer questions parents have on the program.
5. To encourage and assist school personnel in a teacher training program to help teachers in working with parents on the IEP.

It should be required that all IEP's contain specific items for parent involvement:

1. How to check the child's progress.
2. At-home activities that can reinforce the educational program.
3. Check-point intervals for parents to confer with teachers and to revise and update the IEP.

It should also be required that an IEP may not be completed before the parent meeting, that a completed copy be made available to parents a reasonable time after the meeting, and that all parents be informed of the appeal procedure.

We feel that these recommendations are within the intent of the law and will serve greatly to strengthen the local programs.

Thank you, Mr. Chairman, for this opportunity to present our views. I will be pleased to answer any questions.

# A PARENT- CITIZEN SURVEY Checking Your Child's Progress In Special Education Programs

1. The IEP meeting was held within 30 days following evaluation of my child. If NO, please check when the IEP meeting was held following the evaluation:

<u>6.0</u>	<u>2.9</u>	<u>1.7</u>
1 mos. later	3 mos. later	6 mos. later
<u>0.9</u>	<u>5.5</u>	<u>6.0</u>
3 mos. later	6 mos. later	never

59.1 Yes No 34.4

2. The information from this child evaluation became the IEP plan and was used for planning program for my child.

91.3 Yes No 11.3

3. The following were present at the IEP meeting:  
My child  
Child's teacher  
School representative other than child's teacher  
Parent or Guardian

77.9 Yes No 22.1

77.9 Yes No 22.1

60.4 Yes No 39.6

83.2 Yes No 16.8

Other:

4. The IEP for my child contained the following items:

- annual goals 76.1 Yes No 23.9
- short-term objectives 73.3 Yes No 26.7
- specific services to be provided 72.5 Yes No 27.5
- present level of performance 75.7 Yes No 24.3
- date services were to begin 67.3 Yes No 32.7
- ways to check my child's progress 60.0 Yes No 40.0
- special materials, equipment or media 57.2 Yes No 42.8
- percentage (%) of time in regular class placement 50.5 Yes No 49.5
- place for me to indicate my approval 77.1 Yes No 22.9
- educators informed me of how the IEP was to be developed and what would be in it 65.0 Yes No 35.0

5. The description of my child's present educational performance in the IEP included information in all four of these areas:

- self-help skills (personal maintenance) 60.1 Yes No 39.9
- academic skills (reading, math, etc.) 73.3 Yes No 26.7
- social behavior (how she gets along with others) 67.1 Yes No 32.9
- physical skills (coordination, fine motor skills) 58.1 Yes No 41.9

6. The description of my child's present educational performance in the IEP included information in all four of these areas:

- self-help skills (personal maintenance) 60.1 Yes No 39.9
- academic skills (reading, math, etc.) 73.3 Yes No 26.7
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- physical skills (coordination, fine motor skills) 58.1 Yes No 41.9

10. The IEP clearly stated what special services my child would receive.

11. The dates for the special services for my child were given.

12. I know when the special services will end for my child.

13. The services provided by the IEP were determined by who was available, other than what was stated. (For example, if a certain service was known to be needed but the person who was made responsible for what the district provides had it.)

continue

14. A specific date was set for reviewing my child's program under this IEP.

\* 74.9 Yes No 42.0

15. The method of checking my child's progress in the IEP included:  
how it would be checked  
when it would be checked  
who would be responsible for making sure it's done

\* 45.6 Yes No 32.1

\* 42.6 Yes No 34.5

\* 43.9 Yes No 34.5

16. For regular class placement, my child was considered during the IEP meeting.

\* 55.7 Yes No 33.7

17. Every attempt was made by the school to provide services for as much time as possible in a regular classroom.

\* 44.3 Yes No 23.5

18. A completed copy of the IEP was

made available to me to look at

\* 66.4 Yes No 7.3

made available to me to keep

\* 58.3 Yes No 30.2

19. The IEP for my child was completed before the meeting with me.

\* 51.9 Yes No 28.6

#### What Were Your Feelings About the Following:

20. Educators presented information during the IEP meeting in understandable language.

\* 71.1 Yes No 7.1

21. I was given the opportunity to ask questions about points I didn't understand regarding the IEP.

\* 62.4 Yes No 4.4

22. I was encouraged to contribute significant information to my child's IEP.

\* 62.8 Yes No 16.2

23. The IEP final was developed according to my child's needs.

\* 70.2 Yes No 4.0

24. Educators provided information that helped me understand the IEP process.

\* 63.0 Yes No 22.7

25. I felt like a fully participating member with the educators during the planning of the IEP.

\* 57.7 Yes No 20.0

26. The school which my child attends has a program for preparing parents to participate in the IEP process.

\* 36.2 Yes No 5.2

27. I refused to consent to the IEP

\* 5.2 Yes No 78.5

28. I was given specific information on how to appeal the program and a decision on the IEP.

\* 34.0 Yes No 25.1

29. I was asked to submit a connected to services in my child's IEP.

\* 52 Yes No 7.1

30. I am hopeful that the IEP for my child will improve his/her

\* 64.0 Yes No 11.0

#### Other comments:

Please feel free to give us any additional comments about your IEP experience.

Insert the completed form in envelope provided.  
Your 15¢ stamp saves us 20¢.

National Committee for  
Citizens in Education (NCEE)  
Suite 410, Wilder Lake Village Green  
Columbia, Maryland 21044

Return as soon as possible,  
but no later than July 1, 1979

Public Law 94-142 (The Education for All Handicapped Children Act of 1975) is a federal law which provides for a free and appropriate public education for all handicapped children regardless of the degree or type of handicap. This law also requires that a written educational program (IEP) be developed for each child to meet his or her unique educational needs.

This questionnaire is designed to find out about the parents' views concerning the impact of this law on the individual Educational Plan (IEP). We value the amount of time and help you do about it. Keep in mind that your help is needed to improve the children's lives in the country. As one example, we plan to provide additional help to parents on how to participate more successfully in the IEP process.

School Building \_\_\_\_\_  
School Name \_\_\_\_\_  
Parent's Name \_\_\_\_\_  
Address \_\_\_\_\_  
Street City State Zip

Child's Age \_\_\_\_\_ Sex \_\_\_\_\_  
What is your child's primary handicapping condition?

Is your child in a public school? Yes \_\_\_\_\_ No \_\_\_\_\_  
If NO, what type of school? \_\_\_\_\_

Your phone number (should be held confidential) could be helpful to us, if we want to follow up.

Area Code \_\_\_\_\_ Number \_\_\_\_\_

Please attach the following question after you have attended the meeting at which your child's IEP was developed for the coming school year.

# STATEMENT OF STANLEY SALETT, NATIONAL COMMITTEE FOR CITIZENS IN EDUCATION

Mr. SALETT. Mr. Chairman, members of the subcommittee, my name is Stanley Salett, senior associate of the National Committee for Citizens in Education.

The NCCE is a nonpartisan, nonprofit organization dedicated to the increasing citizen involvement in the issues and policies of our Nation's public schools. We work with a network of over 325 parent/citizen groups which are active in public education at the local and State level. One of the beliefs we share is that decisions affecting the lives of children should be open to public scrutiny.

We have found that a growing body of research demonstrates that parental involvement in school activities has a positive effect not only on school policies, but on students' achievement as well. Over a decade ago, for example, James Coleman made his now famous report to the Department of Health, Education, and Welfare, which showed, among other things, that student achievement is higher in schools with active parent organizations.

Our experience with parent/citizen groups and our research of the literature on the effect of parental involvement leads us to conclude that it is indeed wise policy for the Federal Government to encourage parent participation in public schools. Consequently, we strongly support the provisions in the law requiring parent involvement in the development of individual education plans for their handicapped children.

Given this background, NCCE felt that a specific monitoring of these parent participation provisions was required. So, in November of 1978, together with a research team based at Ohio State University, and a coalition of more than 400 local and State voluntary organizations, we conducted a survey to examine the parents' role under the law. Our intent was to try to answer questions such as:

Are affected parents aware of the law and their rights under it?

Have schools notified parents that their presence is required at an IEP meeting?

Has a meeting been held this year, and how were parents treated at it?

Do parents know they can appeal IEP's made for their children?

Our primary source of information has been nearly 2,400 parents of children with various handicaps who took the time to complete our survey. Our survey has not been funded by the Federal Government, but is supported by the George Gund, Field, New World, and Hearst Foundations. To our knowledge, it is the only national survey focused solely upon parent participation in Public Law 94-142.

In addition to surveying individual parents, we are also reviewing the Bureau of Education for the Handicapped's State administrative reviews to identify IEP-related areas cited by BEH for corrective action, and then contacting each State for status reports.

For today's hearing, I would like to discuss the preliminary findings of the parent/citizen survey, and our analysis of the BEH program administrative reviews. If you have no objection, Mr. Chairman, I would like to have entered into the record a copy of the questionnaire and the responses tabulated.

Mr. STACK. Without objection, it will be included in the record.

Mr. SALETZ. Over 2,300 parents from 438 school districts in 46 States have responded to the survey thus far.

First, considering that Public Law 94-142 has been fully in effect for only 1 school year, the IEP process seems to be working basically very well.

Nearly 60 percent of the parents surveyed report that an IEP meeting has been held within 30 days of their children's evaluations. Only 6 percent report that a meeting was never held.

Over 70 percent of the respondents said that the information about their children's evaluations was "fair and useful," that educators presented the IEP in understandable language, and that there was an opportunity to ask questions.

Of the parents surveyed, 70 percent reported that the IEP's did contain important basic information: Annual goals, short-term objectives, specific services to be provided, present performance levels, and the dates that services were to begin.

And over two-thirds of the responding parents felt adequately informed about the IEP and felt that the IEP generally fit their children's needs. Only 5 percent refused to approve their children's IEP's.

I think these figures indicate that the idea of an individual educational plan for each handicapped child, drawn up in consultation with the child's parents, has had success. Such a massive undertaking has required an enormous amount of time, energy, and commitment from everyone involved—teachers, administrators, and education officials as well as parents—and it is indeed a tribute to the wisdom of the Congress that it has worked so well.

On the other hand—and there is always another hand—I think it was President Truman who said that what he needed was a one-handed adviser—there are some substantial problems.

Parents are not participating as full partners in the development of the IEP's.

A majority, 52 percent of the parents surveyed, reported that the IEP's were completed before the meeting.

Nearly 30 percent reported that the IEP's do not contain ways for parents to check their children's progress.

Thirty percent reported that the IEP did not indicate how much time a child would spend in a regular classroom setting.

In 40 percent of the cases, no specific date was set for reviewing a child's progress; and in a third, no mention was made of how, when, or by whom a child's progress would be checked.

Parents are not being prepared to participate in the IEP process. In fact, over half of the school districts covered in the survey do not have a program to prepare parents.

Information on how to appeal a contested evaluation of IEP was not made available to nearly 46 percent of the parents surveyed.

And while the most basic requirements of the IEP have been met, still a full 45 percent of the parents reporting felt that the annual goals set in the IEP did not fully meet the educational needs of their children.

A further analysis of our data shows that the parents of mildly handicapped children are generally more satisfied with the IEP procedures than are the parents of severely handicapped children.



Our colleagues at Ohio State University have also finished a preliminary content analysis of the program administrative reviews conducted in 31 State departments of education by teams from BEH from 1977 to 1979. Their major findings are that in 75 percent or more of these States:

Requirements as to IEP content and procedures are inconsistently applied by the local education agencies.

Parent involvement on any substantive and documented basis is lacking.

State monitoring of IEP development and implementation is notably weak.

Obviously, our study of parental involvement in Public Law 94-142 is far from complete. Even now, more surveys are being returned, analysis of State efforts is continuing, and a survey of more than 400 parent organizations is underway. We would be delighted to keep the subcommittee informed, Mr. Chairman, of our further findings, and to be available as a resource as need arises for additional information.

We do, however, feel that a few recommendations may be made on the basis of the findings so far. A districtwide advisory council, composed of a majority of parents of handicapped children representing each school with a program, be required for every district receiving funding under the law, and given the following responsibilities.

1. To provide basic information on Public Law 94-142 to all parents of handicapped children in the district, including information on how to appeal an evaluation or an IEP.

2. To review the district's plan for implementing Public Law 94-142 and to hold public meetings on the plan.

3. To develop and maintain a roster of interested members of the public and affected agencies, including parent/citizen organizations, which should be routinely informed of the council's activities.

4. To encourage and assist school personnel in a parent training program to acquaint parents with their rights and responsibilities under the law, and to provide parents with information on the publication, development, and use of the IEP; and to answer questions parents have on the program.

5. To encourage and assist school personnel in a teacher training program to help teachers in working with parents on the IEP.

It should be required that all IEP's contain specific items for parent involvement:

1. How to check the child's progress.

2. At-home activities that can reinforce the educational program.

3. Checkpoint intervals for parents to confer with teachers and to revise and update the IEP.

It should also be required that an IEP may not be completed before the parent meeting; that a completed copy be made available to parents at a reasonable time after the meeting, and that all parents be informed of the appeal procedures.

We feel that these recommendations are within the intent of the law and will serve greatly to strengthen the local programs.

Thank you, Mr. Chairman, for this opportunity to present our views. I will be pleased to answer any questions.

MR. STACK. One of the points made in your testimony was the ability to verify that parents have been contacted, and so forth, as

I recall. Would that not involve a requirement for more accurate recordkeeping, perhaps? I think you said that they are not able to demonstrate that parents have been informed, and so forth.

Mr. SALETT. We found that while parents were contacted, one of the major areas was that parents were not informed about their rights under the law, particularly the right of appealing the IEP, or the evaluation.

Mr. STACK. What I am suggesting, that they may have been informed but there was no record of it. So, would one of your recommendations be that there be more accurate recordkeeping as to what degree the parents were involved, and how?

Mr. SALETT. Yes. That could be included within the present forms.

Mr. STACK. Does staff have any questions?

Ms. SNEIDER. I have a question, Mr. Chairman.

Mr. Salett, with regard to your comments about the inadequacy of State monitoring procedures and subsequent recommendation of a different level of parent participation plans through the districtwide advocacy council, I was wondering if you conceive the function of the districtwide advocacy council to perhaps include, the possibility of a monitoring function. Would this supplement, or complement, what is ongoing now with respect to monitoring?

Mr. SALETT. Yes. I would see it as complementing it. In another capacity I serve as a local school board member and had a particular experience in this regard. The school board in this county, which is a county serving 25,000 students in public schools, received the local education plans for Public Law 94-142 with no provisions whatsoever to inform parents of their rights under the law. When I questioned the staff about this, they said that they felt that the State guidelines were somewhat obscure and confusing, and what they did not want to do was create an adversary situation between parents and teachers.

I asked them whether they had fully followed the law, and they said, "No; not that much."

I feel that a parent advisory council of the kind we are recommending would really place perhaps more pressure on local school officials to look at the law, examine it, particularly in this area of due process rights.

Ms. SNEIDER. Just one further comment. You have some very specific delineations of what the advisory council would do. I do not remember at this point as to whether or not there was a provision for the collection of data on compliance by the advisory council. I do not believe there was.

The question that I was trying to address is, do you feel that the advisory council could collect data on compliance and then report it? And, if so, to whom?

Mr. SALETT. We did not include that. I think that could be collected if by data and compliance you mean how many parents are served, how many appeals are made, and so on; and that, I suppose, could be a checkpoint on the kind of information that the local education authorities then submit to the State as part of their compliance under the law.

Ms. SNEIDER. Thank you.

Mr. STACK. Now, the districtwide advisory council would be started on a voluntary basis, I take it.

Mr. SALETT. Yes; primarily of parents who are being served by the law itself. This parent advisory council would be comparable to other parent advisory councils presently mandated by the Congress in other areas of Federal law, such as the Bilingual Education Act, and title I of the Elementary and Secondary Education Act. We feel that those advisory councils have worked well and see no reason why this would not be the case under Public Law 94-142.

Mr. STACK. Who would appoint the members of the council?

Mr. SALETT. The local council would be appointed by the local board of education, but under guidelines again similar to other areas of Federal education programs.

Mr. STACK. It would seem to be an appropriate recommendation. I would like to think about it. That recommendation and the others you made are very helpful. Are there any other questions?

Now, if indeed you have to leave, please feel free to do so. Your statement, of course, will be entered in the record.

Mr. SALETT. Thank you very much. I will stay as long as I can. I really would like to hear the other testimony as well.

Mr. STACK. Mrs. Taggart?

[The prepared statement of Mrs. Taggart follows:]

PREPARED STATEMENT OF JANET WARD TAGGART, MEMBER, STATE OF WASHINGTON DEVELOPMENTAL DISABILITIES PLANNING COUNCIL, SEATTLE, WASH.

Thousands of handicapped children are not receiving early childhood education until the age of 6, thus missing the crucial years when intervention could be the most effective. Although early education is defined as beginning at birth by the regulations which implement Public Law 94-230, Public Law 94-142, known as the Education for All Law, which assures educational and related services to handicapped children is interpreted as applying to those children ages 6 to 18. Services to those younger than 6 or older than 18 depend on each State's law. Clearly there is a gap between the definition of early intervention and the beginning of service delivery. To solve the problem this presents, the provisions of Public Law 94-142 need to address handicapped children ages birth through 5 years.

AGES																					
0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
						Required by Federal Law															
						Authorized by not Required by Federal Law															
Early Inter-			Early Edu-																		
vention			cation																		

Over the past decade, research and practice in early childhood education for the handicapped has shown that intervention can lessen the effects or in some cases, even prevent a handicapping condition. Furthermore, when intervention is begun as early as possible, handicapped children can develop to their full potential, the family unit becomes more stable and an important fact for many of us, intervention is cost effective for society.

Early intervention programs include all the services needed for parents and their young handicapped child from birth to three years. These services may include nursing and nutritional intervention, parent training, speech, physical and occupational therapy, social work services, transportation, and early screening and identification. When the child reaches age three he or she may enter an early education preschool. Such preschools resemble the more traditional special education classroom with support services.

## WHY INTERVENE EARLY?

Within the past few years, research studies which examine the long-term effects of early intervention programs have begun to show that handicapped children with preschool experiences do better than children who needed such services but did not receive them by age five or six (McDaniels, 1977).

For example, preliminary findings of a follow-up study of graduates of the Model Preschool Center for Handicapped Children at the University of Washington indicate that children who received early intervention are placed in special education programs less often than those children who did not receive early training. The Model Preschool students maintained the cognitive development gains they made in preschool, and even those placed in special education scored as high on intelligence tests as a great number of the children in regular education. Children placed in regular classes did not repeat grades, but kept up with their normal classmates (Hayden, Morris, & Bailey, 1977).

Similar findings were reported by Dr. Irving Lazar (1977) in a long-term follow-up study of low income children from 14 different infant and preschool experiments. Results indicated that gains made by handicapped children in preschool programs are long lasting, that fewer children who had preschool experiences were placed in special classes or returned to special classes, and that fewer children had to repeat grades.

It is becoming increasingly apparent that successful programming for children is dependent upon time. The earlier the handicap is identified, the more successful the intervention. This argument is based on both theory and evidence. First, complex human behavior develops through a continual interaction of internal growth and life experiences. That there are specific delays in development of handicapped children are well documented. With skilled intervention and environmental stimulation these can be remedied or even prevented. Since 9.8 percent of the handicapped population can be identified at or near birth (Beck, 1976), and since the basis for many complex cognitive and social skills appear to develop during the first three years of life (White, 1975), it is necessary to intervene as close to birth as possible.

A number of studies demonstrate the effectiveness of early intervention with handicapped children. One frequently cited research effort was conducted by Heber and Garber (1975). The goal of this study was to help families. The children were studied from 3 months of age to 6 years. The program aimed to prepare mothers for employment opportunities and to improve their homemaking as well as child-rearing skills. The children were provided with an extremely intensive intervention program. The study essentially demonstrated that children who participated made significant gains in language development and IQ.

Much work has also been conducted with infants younger than those in the Heber study, mainly with premature infants which are easily identified and have documented delays (Ross & Leavitt, 1976). In a study by Williams and Scarr (1971), various methods of home intervention (including no imposed intervention) were compared with premature children in three age groups: (1) one-two years, (2) two-three years, (3) three-four years. From the results of this study it was concluded that only children who received a combined approach of materials and home training showed significant gains. Children whose families were either given materials only or had no form of intervention did not improve significantly. Although intervention techniques vary widely in studies, it is apparent that infants prosper from stimulation.

## MYTHS THAT PERSIST

The greatest obstacles to convincing people of the need for early intervention and education are myths which have grown up around who should be educated, who can profit from education and when intervention should begin. These include statements such as:

"School age begins at five years of age."

"Infants will outgrow developmental delays."

"Learning and awareness are not present in babies."

However, recent research makes it impossible to maintain these erroneous beliefs. For example, there is evidence that there may be critical times for the development of skills, and that most of these times do occur during the first three years of life. Also failure to provide a stimulating early environment leads not only to a stagnation in the babies' development, but to actual atrophy of sensory abilities and to developmental regression. Failure to remediate one



handicap may multiply its effects in other developmental areas, and may produce other handicaps (Hayden & McGinnis, 1977).

Other myths that prevent all of us from providing these opportunities for our children to grow include the following.

"It's too expensive to provide education for handicapped children."

"Handicapped people are less productive than normal people."

The results of a Ypsilanti Preschool Project showed that preschool programming is an educationally effective experience for disadvantaged children and a cost-effective procedure for society (Schweinhart & Weikart). The suggestions from the Ypsilanti project are that children experiencing the intervention are better able to manage later school experiences as measured by their ability to proceed through school at regular grade placement and avoid special education or failure to be promoted to higher grades. This produced actual financial savings to the state.

In spite of the solid evidence supporting the effectiveness of both early intervention and early education, we do not have any federal legislation assuring early intervention for handicapped children at birth. Nor do we have any federal legislation that assures that they will receive educational opportunities at age three. Quoting from Public Law 94-142:

"A free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;" (20 U.S.C. 1421, Sec. 612, (b)).

Thus, individual states differ greatly in the scope and quality of early intervention and early educational programs offered for young handicapped children. Simply stated, the federal law cannot require a State to serve preschool children if serving them is inconsistent with the State law. Although a few states such as Washington are attempting to change State legislation to assure early intervention and early educational programs to handicapped children age birth through five, this is an isolated effort.

#### SOLUTIONS

Federal legislation has established the rights of handicapped children ages 3-21 to a "free, appropriate, public education"—if not inconsistent with their State law. It is now time to amend Our Education For All law Public Law 94-142 to guarantee these rights to handicapped children at birth. This amendment must require the states to serve the birth to five population unless the State law clearly prohibits it. In addition, funding for early intervention and early education must be strengthened so that States will be motivated to develop these services.

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#### STATEMENT OF JANET W. TAGGART, DEVELOPMENT DISABILITIES PLANNING COUNCIL, STATE OF WASHINGTON.

Mrs. TAGGART. Mr. Chairman and members of the subcommittee, my name is Janet Taggart. I represent the State of Washington Developmental Disabilities Planning Council and speak for them on this issue.

Thousands of handicapped children are not receiving early childhood education until the age of 6, thus missing the crucial years when intervention could be most effective. Although early education is defined as beginning at birth by the regulations which implement Public Law 94-230, Public Law 94-142, known as the education for all law, which assures educational and related services to handicapped children, is interpreted as applying to those children ages 6 to 18. Services to those younger than 6 or older than 18 depend on each State's law. Clearly, there is a gap between the definition of early intervention and the beginning of service delivery. To solve the problem this presents, the provisions of Public Law 94-142 need to address handicapped children, ages birth through 5 years.

Over the past decade, research and practice in early childhood education for the handicapped has shown that intervention can lessen the effects, or in some cases even prevent a handicapping condition. Furthermore, when intervention is begun as early as possible, handicapped children can develop to their full potential, the family unit becomes more stable, and, an important fact for many of us, intervention is cost effective for society.

Early intervention programs include all the services needed for parents and their young handicapped child from birth to 3 years. These services may include nursing and nutritional intervention, parent training, speech, physical and occupational therapy, social work services, transportation, and early screening and identification. When the child reaches age 3, he or she may enter an early education preschool. Such preschools resemble the more traditional special education classroom with support services.

Within the past few years, research studies which examine the long-term effects of early intervention programs have begun to show that handicapped children with preschool experience do better than children who needed such services but did not receive them by age 5 or 6.

For example, preliminary findings of a followup study of graduates of the Model Preschool Center for Handicapped Children at the

University of Washington indicate that children who received early intervention are placed in special education programs less often than those children who did not receive early training. The model preschool students maintained the cognitive development gains they made in preschool, and even those placed in special education scored as high on intelligence tests as a great number of the children in regular education. Children placed in regular classes did not repeat grades, but kept up with their normal classmates.

Similar findings were reported by Dr. Irving Lazar in a long-term followup study of low-income children from 14 different infant and preschool experiments. Results indicated that gains made by handicapped children in preschool programs are long-lasting: that fewer children who had preschool experiences were placed in special classes or returned to special classes, and that fewer children had to repeat grades.

It is becoming increasingly apparent that successful programming for children is dependent upon time. The earlier the handicap is identified, the more successful the intervention. This argument is based on both theory and evidence. First, complex human behavior develops through a continual interaction of internal growth and life experiences. That there are specific delays in development of handicapped children is well documented. With skilled intervention and environmental stimulation, this can be remedied or even prevented. Since 6.8 percent of the handicapped population can be identified at or near birth, and since the basis for many complex cognitive and social skills appears to develop during the first 3 years of life, it is necessary to intervene as close to birth as possible.

A number of studies demonstrate the effectiveness of early intervention with handicapped children. One frequently cited research effort was conducted by Heber and Garber in 1975. The goal of this study was to help families. The children were studied from 3 months of age to 6 years. The program aimed to prepare mothers for employment opportunities and to improve their homemaking as well as child-rearing skills. The children were provided with an extremely intensive intervention program. The study essentially demonstrated that children who participated made significant gains in language development and IQ.

Much work has also been conducted with infants younger than those in the Heber study, mainly with premature infants which are easily identified and have documented delays. In a study by Williams and Scarr, various methods of home intervention—including no imposed intervention—were compared with premature children in three age groups: That is, 1 to 2 years; 2 to 3 years; 3 to 4 years. From the results of this study, it was concluded that only children who received a combined approach of materials and home training showed significant gains. Children whose families were either given materials only or had no form of intervention did not improve significantly. Although intervention techniques vary widely in studies, it is apparent that infants prosper from stimulation.

The greatest obstacles to convincing people of the need for early intervention and education are myths which have grown up around who should be educated, who can profit from education, and when intervention should begin. These include statements such as:

"School age begins at 5 years of age."

"Infants will outgrow developmental delays."

"Learning and awareness are not present in babies."

However, recent research makes it impossible to maintain these erroneous beliefs. For example, there is evidence that there may be critical times for the development of skills, and that most of these times do occur during the first 3 years of life. Also, failure to provide a stimulating early environment leads not only to a stagnation of the babies' development, but to actual atrophy of sensory abilities and to developmental regression. Failure to remediate one handicap may multiply its effects in other developmental areas and may produce other handicaps.

Other myths that prevent all of us from providing these opportunities for our children to grow include the following:

"It is too expensive to provide education for handicapped children."

"Handicapped people are less productive than normal people."

The results of a Ypsilanti preschool project showed that preschool programming is an educationally effective experience for disadvantaged children and a cost-effective procedure for society. The suggestions from the Ypsilanti project are that children experiencing the intervention are better able to manage later school experiences as measured by their ability to proceed through school at regular grade placement and avoid special education or failure to be promoted to higher grades. This produced actual financial savings to the State.

In spite of the solid evidence supporting the effectiveness of both intervention and early education, we do not have any Federal legislation assuring early intervention for handicapped children at birth; nor do we have any Federal legislation that assures that they will receive educational opportunities at age 3. Quoting from Public Law 94-142:

A free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of 3 and 21 within the State not later than September 1, 1980, except that, with respect to handicapped children aged 3 to 5 and 18 to 21 inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State.

Thus, individual States differ greatly in the scope and quality of early intervention and early educational programs offered for young handicapped children. Simply stated, the Federal law cannot require a State to serve pre-school children if serving them is inconsistent with the State law. Although a few States, such as Washington, are attempting to change State legislation to assure early intervention and early educational programs to handicapped children ages birth through 5, this is an isolated effort.

Federal legislation has established the rights of handicapped children ages 3 to 21 to a "free, appropriate, public education"—if not inconsistent with their State law. It is now time to amend our education for all law, Public Law 94-142, to guarantee these rights to handicapped children at birth. This amendment must require the States to serve the birth to 5 population unless the State law clearly prohibits it. In addition, funding for early intervention and early education must be strengthened so that States will be motivated to develop these services.

Thank you.

Mr. STACK. Mrs. Taggart, I want to thank you for a very strong and well documented statement supporting early intervention. I do not think you could have done better; and I think you will find substantial agreement on the problem on the part of members of this committee on your very well presented point of view.

Are there any questions of Mrs. Taggart?

Ms. SNEIDER. One very short question.

Mr. STACK. Go ahead.

Ms. SNEIDER. You mentioned several studies that documented the need for early intervention. I was wondering whether or not, in those studies, any suggestions had been made as to mechanisms which would utilize existing programs within a community to identify pre-school children in need of service on the one hand, and then on the other, to provide the aid that they need.

Mrs. TAGGART. In the State of Washington we have a "child find" study. We also have an active advocacy program. Yes, we do recommend existing programs. Does that answer your question?

Ms. SNEIDER. Yes. I was just wondering if they identified any existing programs or mechanisms.

Mrs. TAGGART. There is not any study that has identified them completely. I could probably do it.

Ms. SNEIDER. Well, in order to save time, perhaps, if you could submit some additional information, with the chairman's permission, to give us some idea of the mechanisms that could be employed for outreach and service. That would be appreciated.

Mrs. TAGGART. Could I take time to do that?

Ms. SNEIDER. Yes, at a subsequent time.

Mrs. TAGGART. At a subsequent time, OK.

Ms. SNEIDER. Thank you, Mr. Chairman.

Mr. STACK. All right, Mrs. Crawford?

[The prepared statement of Mrs. Crawford follows:]

PREPARED STATEMENT OF DOROTHY CRAWFORD, BOARD MEMBER, ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES (ACLD)

It is my pleasure to present this testimony on behalf of the Association for Children with Learning Disabilities (ACLD). The organization is primarily a parents organization with 767 chapters in all 50 states. This testimony is based on collective information received from ACLD's many thousands of parent members. Therefore, it is this organization's position that most problems could be solved through "policy clarification" rather than amendments in the statutes. However, in at least one instance, an amendment in the statutes may be necessary.

1. *Evaluation team.*—The DAS bulletin No. 9, issued by BEH on April 19, 1979, clarified the participation of a qualified LD teacher/specialist on the evaluation team. Many parents have reported to ACLD that the appropriate school officials are not observing the requirements of Section 121a. 532(e) by not including qualified LD specialists, even when they are available.

The Rules and Regulations should reflect at least in the "Comment Section" that an LD specialist should be included when a child suspected of having a specific learning disability is being evaluated.

(a) *Evaluation Procedures*, Section 121a. 532(c) needs to be changed: Delete "impaired, sensory, manual or speaking skills", and insert "handicapping condition or conditions."

2. *IEP.*—Parents are called to meetings, often not identified as IEP meetings, and are confronted with school personnel and a pre-written set of goals and objectives. In this kind of setting, parents do not understand their role, or the procedure taking place. It is, therefore, ACLD's recommendation that parents



receive prior clear information as to the intent of the meeting. Also, an explanation of their role in the development of the IEP and advance information such as teacher notes, recommendations and proposed objectives.

Another major problem is that the IEPs do not generally reflect the need for related services such as: Vocational Education, Career Education, Special corrective physical education programs, etc.

Along those lines, related service personnel are usually not included in the IEP meetings.

3. **Placement.**—Recently, the ACLD Professional Advisory Board issued jointly with the ACLD Board of Directors a statement on multi/cross-categorical classroom placement of children with specific learning disabilities. Also, the ACLD Board of Directors issued a supplementary resolution. The two statements follow.

#### STATEMENT OF ACLD PROFESSIONAL ADVISORY BOARD

There has been a great deal of concern among some states and the ACLD Board of Directors about multi/cross-categorical special education classrooms in which different exceptionalities of children are mixed. A questionnaire was sent to each State to determine the quantity and quality of such classrooms across the country.

The data compiled from the responses to this survey represent a rather dramatic change in public school placement and management of the learning disabled child. 72 responses were submitted from 34 states. Of the 34 states, 20 now mix different categories of exceptional children within a resource room, and 13 do so in self-contained classrooms. Only 4 states indicated they have no multicategorical resource rooms and only 9 have no multicategorical self-contained classrooms. Different regions within some states often gave yes and no answers as to whether their state allows or is presently using the multicategorical concept. The only pattern that emerges on evaluation of the questionnaire responses is that of chaos and lack of communication between the states and, indeed, within the states.

The intent of the survey was to determine the extent to which the multi/cross-categorical resource room and self-contained classroom is being used as compared to the self-contained classroom or the resource room that serves a single exceptionality, particularly the learning disabled child. It appears that, for various reasons, children with learning disabilities are being tutored and in many cases, receiving the majority of their tutoring or instruction in groups of children whose problems may be quite different. Although the common problem among the group may be deficient academic skills, this seems to be the only factor taken into consideration as the criteria for placement are revised or developed in the states.

The adoption of Public Law 94-142, and its erroneous interpretation by many as a "mainstreaming" law, appears to have given many states the impetus to use the concept of "least restrictive environment" in a distorted manner. Children of all exceptionalities may suffer if state and local education agencies continue to look upon Public Law 94-142 as a directive for mainstreaming all handicapped children in multi/cross-categorical resource and self-contained classrooms.

The Professional Advisory Board of the Association for Children with Learning Disabilities believe that every learning disabled child's education should include at least the following components:

(1) Every learning disabled child will be taught by a teacher trained and certificated to teach learning disabled children.

(2) Programs for learning disabled children will include the full range of services specified in Public Law 94-142, matching the intensity of the services to the severity of the child's disability.

(3) Content of instruction (curriculum) for learning disabled children will approximate that for all children; method of instruction needs to match the unique learning needs of each child.

Therefore the Professional Advisory Board recommends programs in which learning disabled children are taught by qualified, certified L.D. teachers, with adequate amounts of instruction per day or week, using methods specific to the learning needs of each child. The multi/cross-categorical classroom is not an appropriate educational program if it does not provide the components listed above.

Resolution of ACLD Board of Directors:



Whereas, The appropriate learning situation for most children with learning disabilities should consist of a highly structured and individualized course of remediation given by a properly certified teacher in a classroom with minimal extraneous auditory and visual stimuli, and

Whereas, The above conditions cannot be met in a classroom wherein students with learning disabilities are taught with children who have other types of handicaps and whose educational needs and modes of remediation are necessarily different in kind, emphasis, and content, and

Whereas, It is extremely unlikely that any one teacher can be trained to be proficient in the specialized remedial measures necessary to teach numbers of handicapped children with such diverse needs, and

Whereas, Such an environment can only result in further loss of self-esteem and the development of a poor self image by the child with learning disabilities whose needs are social and emotional as well as academic, and

Whereas, The increased usage of such multicategorical classrooms is for essentially economic purposes rather than for the reason of providing an ideal learning situation,

"Be it resolved, That the ACLD is on record as being opposed to the use of multicategorical rooms in the remediation of the child with learning disabilities, except in the case of certain carefully justified programmatic circumstances.

"Be it further resolved, That the Public and all proper agencies in the fields of government and education be informed of this position.

4. *Monitoring.*—Monitoring Procedures need to include the SEA's timeline for monitoring, areas specifically to be monitored by the SEA's, role of parent participation, procedures for corrective action between the SEA's monitoring periods, and a plan for implementing on-going monitoring.

5. *Comprehensive system of personnel development.*—The following recommendation is being made in response to the many parents complaining that programs commensurate with their children's needs are not being provided due to attitudes, misunderstanding and incompetence demonstrated by school administrators, especially principals and the regular classroom teachers: In order for a state to qualify for monetary assistance the state shall demonstrate to the Commissioner that appropriate in-service training be required, instead of just being available for all administrators (on state and local levels), teachers, related service personnel, who are involved with the education of handicapped children. (Recommended statute change.)

6. *Surrogate parent.*—The rights of handicapped children in all types of institutions (i.e., correctional, mental and other residential institutions) must be protected by the selection of surrogate parents, whenever parents are not available. Procedures, especially for monitoring, must be more clearly defined to ensure the inherent rights of these handicapped children.

In closing, the above statements list the most critical issues as viewed by the ACLD. The ACLD wishes to express its appreciation of this Subcommittee's inviting our participation in these Oversight Hearings. We gratefully acknowledge the efforts of this Subcommittee, indeed Congress, for your astute foresight, compassion, and concern for the welfare of all handicapped children.

Thank you.

#### STATEMENT OF DOROTHY CRAWFORD, BOARD MEMBER, ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES (ACLD)

Mrs. CRAWFORD. Mr. Stack and members of the committee, it is my pleasure to appear here on behalf of the Association for Children with Learning Disabilities—ACLD. I am a board member of the national organization and serve this year at the national level as Advocacy Committee chairperson. In addition, ACLD is a grant recipient of a grant program through LEAA, of which I am the national project director. It is a study investigating the link between learning disabilities and juvenile delinquency. ACLD is a parent-oriented organization with 767 chapters throughout this country.

The testimony I am presenting today is based on collective information received from our membership. It is this organization's position that most problems that we have seen evidenced in Public Law

94-142—and that is in implementing it—could be solved through some kind of policy clarification, rather than amendments in the statute. We do feel that there is one instance where we would like to make a recommendation—and I will a little later in this testimony—where there is an amendment that we would like to see placed into the act.

Essentially, we have six areas that I would like to talk about where we feel there should be some kind of clarification. The first one is regarding the evaluation team. I am speaking primarily at this time now regarding the LD youngster. There was a DAS Bulletin No. 9 issued by the Bureau of Education for the Handicapped on April 9, 1979, clarifying the participation of a qualified LD teacher or specialist on the evaluation team. However, our membership has reported to ACLD that the appropriate school officials are not observing this requirement, and they are not including qualified LD specialists, even when they are available.

We feel the rules and regulations should reflect, at least in the "Comment Section" that an LD specialist should be included when a child is suspected of having a learning disability and is being evaluated.

Also, under the same area, the evaluation procedures that are in section 121(a) 532(c) we feel, need to be changed. First I will read it, and then the part that is to be deleted. "Tests are selected and administered so as best to insure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level, or what other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills."

That last phrase, "impaired sensory, manual, or speaking skills" we feel should be changed in deleting that, reading rather, "reflecting the child's handicapping condition or conditions." I should say, inserting "handicapping condition or conditions."

The second area where we would like to draw your attention is to the IEP. In the case of children with learning disabilities so many of them are mainstreamed the greater part of their school day. Many of our parents do not really understand the importance of attending this kind of meeting and they are somewhat unsophisticated. We feel that parents need to be called to the meeting and need to be informed that this is the type of meeting that they are being called to participate in, and should be presented with some information regarding—prior information—regarding the intent of the meeting, rather than coming to the meeting and being presented with some preset goals, almost like wholesale prescription writing. The parents should really have an opportunity to study and be a part of the team in terms of writing their own child's IEP.

Another major problem is that the IEP's do not generally reflect the need for related services, such as vocational education, career education, special correcting physical education programs, and so forth.

Last week as a parent I testified before the Senate subcommittee regarding particularly this area, since my two children with learning disabilities are really young adults now. I have found in my experience with my own child, the one that is almost twenty, vocational education programs just do not exist for those with learning disabilities.

The next area, placement. Recently, the ACLD's Professional Advisory Board and our governing body, the board of directors, issued a

statement of multi cross-categorical classroom placement of children with specific learning disabilities. I will not read this statement as it is entered into the written testimony, and it is rather lengthy, but I would like to call the committee's attention to two different components of this statement. One is on page 3 of the written testimony and it is in regard to the three specific areas that need to be looked into according to the professional advisory board of our organization. They really are not just areas, they are specific recommendations regarding that every learning-disabled child should be taught by a teacher trained and certified in learning disability; and programs will include the full range of services as specified in Public Law 94-142, matching the needs of the child. In other words, the intensity of the services.

Last, their comment was that the content of the curriculum of LD children should approximate that for all children. The method of instruction needs to match unique learning needs of each child.

Then, as far as the board was concerned, since the board is comprised of parents with children that have learning disabilities—and we feel a little more strongly, perhaps about certain issues than the professional advisory board. We set up a resolution at that time, and the last part of the resolution reads:

Be it resolved that the ACLD is on record as being opposed to the use of multicategorical rooms in the remediation of the child with learning disabilities, except in the case of certain carefully justified programmatic circumstances.

The next area we would like to have some clarification on and some investigation is on monitoring. Monitoring procedures need to include the State education agency's timeline for monitoring, areas specifically to be monitored by the SEAS; role of parent participation; procedures for corrective action between the SEA's monitoring periods, and a plan for implementing on-going monitoring. We feel there is quite a gap here in accountability because of lack of certain kinds of procedures that are definitive in manner.

Next, under a comprehensive system of personnel development—and this is our association's recommendation for a statute change, and it is being made in response to the many parents complaining that programs commensurate with their children's needs are not being provided due to attitudes, misunderstanding, and incompetence demonstrated by school administrators, especially principals and the regular classroom teachers.

We would like the statute changed to read, "In order for a State to qualify for monetary assistance, the State shall demonstrate to the Commissioner that appropriate in-service training be required," instead of just being available, "for all administrators, on State and local levels, teachers, related service personnel who are involved with the education of handicapped children."

Then, the last area is "Surrogate Parent." The rights of handicapped children in all types of institutions, such as correctional mental, and other residential settings, must be protected by the selection of surrogate parents, whenever parents are not available. Procedures, especially for monitoring programs in these settings must be more thoroughly defined to ensure the inherent rights of these handicapped children.

In the study that ACLD has participated in, investigating the link between juvenile delinquency and learning disability, preliminary data indicates that there is a preponderance of LD juveniles within our juvenile justice system, and their recidivism is quite high, I must say. And so, of course those of us with these kinds of children, we are particularly concerned that if they are incarcerated or placed in any kind of an area, a correctional institution, that they of course be served with appropriate education programs.

In closing, these statements list the most critical issues as viewed by the ACLD. ACLD wishes to express its appreciation of this subcommittee's, inviting our participation in these oversight hearings. We gratefully acknowledge the efforts of the committee, in fact Congress, for your astute foresight, compassion, and concern for the welfare of all handicapped children.

Thank you, Mr. Chairman.

Mr. STACK. Well, Mrs. Crawford, I would like to commend you for your very informative statement, and I know your recommendations will be carefully considered by the members of the committee. Speaking for myself, I find them very helpful and I know we will give them the most careful consideration.

Are there any questions from staff? If not, we thank you, Mrs. Crawford, and we will hear from Mr. Kingsley now.

[The prepared statement of Mr. Kingsley follows:]

PREPARED STATEMENT OF ROGER P. KINGSLEY, PH.D., DIRECTOR, FEDERAL AFFAIRS  
OFFICE, AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION

The American Speech-Language-Hearing Association (ASHA) is grateful for the opportunity to present its views on the Education for All Handicapped Children Act. Public Law 94-142 stands as one of the landmark pieces of legislation concerning equal educational opportunity for all American children. Today, however, the goals established by Congress to achieve a free and appropriate education for handicapped children are still a long way from being realized. With governmental and public concern over inflation and balanced budgets, the resources needed to fulfill these goals have been placed in jeopardy. As American consumers, we share in the general concern over economic problems. But we also know that such problems must not be allowed to interfere with the fulfillment of basic American rights like equal educational opportunity.

The American Speech-Language-Hearing Association (hereafter referred to as ASHA) has a membership of over 32,000 speech-language pathologists and audiologists. These health and education professionals are concerned with the systems, functions, and processes of normal and abnormal human communications. Approximately 10 million Americans suffer from speech disorders. Nearly 14 million Americans suffer some degree of hearing loss, and almost 2 million of these people are deaf.

Language, speech, and hearing disorders are commonly found among the very young. Because the ability to communicate effectively is so fundamental to other life activities, any loss or limitation of this ability can be detrimental to individual human development and performance.

Children frequently suffer from voice disorders, articulation disorders, stuttering, slow or incomplete development of language skills, and hearing impairment—problems which stem from a variety of causes, but which all require professional evaluation and treatment. A young child whose communication problems are not properly treated is likely to encounter difficulties in academic learning, interpersonal relationships, and future vocational achievement.

ASHA is the accrediting body for college and university programs offering graduate degrees in speech-language pathology and audiology. It is also the accrediting body for many programs offering clinical services in speech-language pathology and audiology to the public. ASHA's Certificate of Clinical Competence is awarded to professionals who have successfully completed strict educational and training requirements through an accredited institution of



higher education. These requirements include the achievement of a master's degree in speech-language pathology or audiology, and completion of at least 300 hours of a supervised clinical internship. In addition, graduates of non-accredited programs must pass a national examination administered by the Educational Testing Service. The Certificate of Clinical Competence is recognized by the Medicare and Medicaid programs as evidence of proficiency in dealing with speech and hearing disorders.

Speech-language pathologists and audiologists are qualified to provide professional services in hospitals, speech and hearing clinics, outpatient rehabilitation centers, nursing care facilities, home health agencies, Head Start programs, private and public schools, and private practice. Approximately 60 percent of all speech-language pathologists work in a school setting.

The right to a public education for all citizens has evolved into a central principle of the American social system. Yet the fulfillment of this right has not always been possible because of conflicting stands concerning the appropriate domains and mechanisms for carrying out such democratic principles.

Long the exclusive domain of the local school district, responsibility for public education has only recently been shared by the states and the federal government. In *Brown v. Board of Education* (1954) the Supreme Court placed the individual's right to an equal education above the prerogative of any governmental entity to act or fail to act in a manner that would impede that right.

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity is a right which must be made available to all on equal terms.

The realization that millions of handicapped children were not being educated on free, equal, and adequate terms led to the gradual extension of the Court's decision to this sector of American society. In several class action suits (*Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*, 1972, and *Mills v. Board of Education of the District of Columbia*, 1972), the Court decided that handicapped children could not be denied a public education and that due process procedures had to be established to guarantee the appropriateness of their academic placement. In the Education of the Handicapped Act in 1965 (Public Law 89-313) and, most significantly, in passing the Education for All Handicapped Children Act (Public Law 94-142) 10 years later, Congress recognized that what the Court said in 1954 of children generally was also true of unserved, underserved, and inadequately served handicapped children. At the heart of Public Law 94-142 was the goal to:

Assure that all handicapped children have available to them "... a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children. [Sec. 601(c) 89 Stat. 775]

The 1975 law was remarkable in that it went beyond merely guaranteeing equal educational opportunity. Taking into account the arguments of thousands of interested citizens and group representatives, Congress built into the legislation the concept that educational programs must be structured around the needs and problems of the individual child. Of the estimated eight million handicapped children in the United States, fully half were reported to be receiving an inadequate or inappropriate education. The individualized education program (IEP) was designed to remedy this deficiency.

The act was unique and progressive with respect to its incorporation of concepts that have increased the potential of fulfilling the promise of public education to handicapped children. Congress avoided simple solutions in favor of procedures that would have maximum impact. For instance, integration of the handicapped was recognized as generally desirable but not always proper with respect to benefitting a youngster's educational development. The intent of Congress was to encourage the placement of handicapped students in regular classrooms and schools, and to discourage the segregated placement of students solely on the basis of their handicaps. Nowhere in the law are the terms "integration" or "mainstreaming" used. Instead, the concept of a "least restrictive environment" was developed to support the goal of educating handicapped and nonhandicapped children in a common environment "to the maximum extent appropriate." Handicapped children were to be placed in alternative educational settings "only when the nature or severity of the handicap is such that



education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." [Sec. 612(5) 89 Stat. 751]

Additionally, Congress recognized the importance of developing IEP's through the cooperation of parents, teachers, and specialists in one or more disability areas. Due process was built into the law and regulations so that parents could participate in the planning and on-going progress of their child's education. Here, Congress recognized the problem of converting the law's objectives into real and appropriate educational programs. School officials could not always be expected to know what was best for the individual child, nor would all of them place the same priorities on special education and related services.

Due process provides not only legal guarantees to handicapped children and their parents, but also the mechanisms by which their rights can be realized. Procedural safeguards are established which include the opportunity to participate in the development of IEP's, the right to file complaints concerning identification, evaluation and placement, and the right to an impartial hearing.

ASHA recognizes the complexity of these aspects of Public Law 94-142. We are aware of the difficulties that have been encountered during the early phases of implementation, and affirm our willingness to work with Congress and agencies of the federal and state governments in overcoming these difficulties in an effort to fulfill the law's intent.

This organization has, in principle and in practice, been a strong supporter of legislation aimed at guaranteeing appropriate educational opportunities for all handicapped children. In particular, ASHA has endorsed the goal of equal educational opportunity, provisions for state plans and timetables, priority setting for severely handicapped children, due process procedures, and the withholding of funds from noncomplying states and localities. ASHA has stated before, and reasserts now, the belief that responsibility for providing education rests principally with the states. But we have also agreed with the Congress that it is the responsibility of the federal government to assure that federal funds provided to the states for educational purposes are used in the nation's best interest, according to guidelines established to reflect that interest.

Since implementation of Public Law 94-142 began several years ago, ASHA has surveyed its members in the schools in order to learn their views on how well or poorly the Act has been working at the local level.

These speech and hearing professionals feel most positively about the increased level of parental involvement in their children's overall schooling. They also believe that communication has been facilitated among the parties involved in developing IEP's, including parents, teachers, and disability specialists. General improvements in goal setting, long term planning and record keeping, and in the organization and delivery of services, were also reported.

Serious problems remain, however, in the movement toward achieving appropriate educational opportunities and settings for all handicapped children. According to many ASHA members, inadequate funding is a critical reason why implementation of the Act is proving difficult. The law requires compliance according to a set timetable, but the resources required for such compliance have not been allocated in a corresponding manner. There is also general consensus in the field that classloads and caseloads remain too high. Insufficient levels of personnel result in children receiving inadequate or inappropriate special education and related services, and in many cases not receiving any assistance at all. There is also a great deal of concern that many children with language, speech, and hearing impairments are not being counted as handicapped. Sometimes the reason is that parents are uninformed about the legal rights guaranteed to them and their children. Often, however, school officials are at fault because they are making little if any effort to see that parents are made aware of Public Law 94-142, or that the provisions of the law are properly implemented. A particularly serious problem exists among hearing impaired children because professional services and aids to facilitate learning are being limited by severe personnel shortages as well as a failure by education officials to implement various provisions of the law.

In the remainder of this statement, I would like to discuss some of these problem areas in greater detail.

#### FUNDING

In order to be in compliance with the mandate of the law and to be eligible for federal funding, state and local education agencies were to have made available by September 1, 1978, a free and appropriate education for all handicapped children. By beginning with five percent federal funding in fiscal year 1978 and

working up to 40 percent in 1982, the state and local education agencies are most heavily burdened at the outset in trying to meet their legal mandate. In effect, the funding formula was written backwards. During the early period of implementation the least amount of federal funding is provided, even though the greatest costs in compliance would presumably occur during this period.

For the states to meet the challenge of education for the handicapped under these circumstances, the states and local districts must come up with huge expenditures for additional personnel, facilities, materials and equipment. Yet the Congressional Budget Office reported that educational expenditures will exceed state and local revenue raising ability through the remainder of the decade.<sup>1</sup> Furthermore, although the authorized federal ceiling for fiscal year 1981 funds is over \$2 billion, the Administration is recommending the allocation of less than half that amount. This underfunding together with an increased child count (the goal set by HEW is 4.1 million children for the 1980-81 school year—while coincides with the 1981 fiscal year), will severely erode the per child allotment. A 1978 ASHA report described some of the detrimental effects of inadequate funding on the Act's implementation:

1. Some states and local education agencies are developing program eligibility standards that eliminate from special education programs students who previously were eligible. This will reduce the number of handicapped children who need to be served, reduce the number of personnel and facilities needed to serve them and reduce costs for providing special education.

2. Specialists responsible for determining a handicapped child's appropriate education are being forced to include in the child's Individualized Education Program only those services that the school districts can provide rather than what the child needs. Because the school district is responsible for providing at no cost to the parent only the special education and related services included in the Individualized Education Program, school districts are able to minimize costs by including minimal services in the IEP.

3. Children who are suspected of being handicapped and in need of special education and related services are not being evaluated promptly. The law indicates that within 30 days after the child is identified as needing services, the IEP must be developed and implemented immediately thereafter. Some school districts delay the assessment process so they will not have to provide the services a child may need. This reduces the costs for providing special education.

4. School districts are not able to employ sufficient numbers of personnel to increase the number of handicapped children served. In some instances, existing personnel have been required to increase the number of children they serve so the state and local education agency can say they are serving all handicapped children. Little consideration is given to the appropriateness of the services provided.

A study conducted by the School Services Program of ASHA<sup>2</sup> showed that school districts did not come close to fulfilling the requirement that all handicapped children ages five to eighteen be enrolled in programs designed to fit their special needs. Of 133 school districts surveyed, 90 districts reported a total of 53,436 speech impaired children who needed special education and related services but were not receiving the needed services.<sup>3</sup>

Language and speech impaired children form the largest disability category among elementary and secondary school age children and generate approximately 85 percent of the Public Law 94-142 funds nationwide. Yet the ASHA survey found that fewer than half of the language, speech, and hearing programs providing services for handicapped children were receiving any Public Law 94-142 funds. The law does not include any provision that a proportionate amount of funds generated by any disability category be used to increase or improve services to children in that category.

Although speech impairment is the most common disability among school children, the reported figures grossly understate the actual incidence of this handicap. One reason appears to be that some states and local districts are re-writing the definitions related to the speech-impaired and are changing eligibility requirements to control or reduce the number of children with speech impairments who need to be served. As with other handicapping conditions, there exists a range of severity in speech impairments. Yet some states have not acknowl-

<sup>1</sup> Congressional Budget Office, *Elementary, Secondary, and Vocational Education: An Examination of Alternative Federal Roles*, U.S. Government Printing Office (#052-070-03885-3), 1977.

<sup>2</sup> "Language, Speech, and Hearing Programs in the School-Survey Data," American Speech-Language-Hearing Association, School Services Program (September 1978).

edged that such a continuum exists and consistently identify speech problems as non-severe.

A related difficulty occurs in states which define speech-language pathology, audiology, and other educational-health services as related services only. The regulations provide that only those children who are enrolled in special education programs, whether or not they are receiving related services, can be included in the annual child count. Technically, in states which define certain services as related only, any child who is communicatively handicapped and only receives services from a speech-language pathologist or audiologist is not counted as handicapped and cannot generate Public Law 94-142 funds.

Another funding problem results from the definition used to designate "unserved" children. The Bureau of Education for the Handicapped has defined as "unserved" those handicapped children in the appropriate age group who "are not receiving any education." [45 CFR 121a.320(a)(2)] Because of the established priorities, Part B funds must be used first to meet the needs of this category of unserved children—those not in school. However, there are large numbers of children who are enrolled in school and in need of special education and related services but who are not receiving these services.

ASHA recommends that Congress consider a number of policies that would help to ensure the effective implementation of Public Law 94-142. First, federal appropriations should allow, at the very minimum, for funding based on the formula percentages written into the law. Second, provisions should be made for state and local education agencies to count for funding purposes all handicapped children who have been identified as needing special education and related services, whether they are actually enrolled in such programs or not. Tied to this is the need to modify the definition of "unserved" to include those children who are enrolled in school but who are not receiving the special education and related services that they require. These changes would enhance the capacity of SEA's and LEA's to employ specialists to serve children on waiting lists. Third, funds should be disbursed in such a way that a relatively proportionate amount of funds generated by any single disability category are used in the program serving children in that category.

#### PERSONNEL DEFICIENCIES

The availability and utilization of specialists to deal with the various disabilities is integral to the achievement of appropriate education for handicapped children. For this reason, there must be a continuing expansion of programs to train teachers of special education as well as pupil service professionals such as audiologists, occupational therapists, and school psychologists. Also important is the "inservice training" of all educational personnel, including regular classroom teachers and school administrators, who interact with handicapped children. Instead of being expanded, however, these programs of personnel development are now being cut back. During fiscal year 1979 the appropriation for personnel development under education for the handicapped was \$57,687,000. But Congress has reduced this figure to \$55,375,000 for fiscal year 1980.

Under the provisions of a "Comprehensive System of Personnel Development," each participating state must submit to the Commissioner of Education for approval a plan which sets forth:

A description of programs and procedures for the development and implementation of a comprehensive system of personnel development which shall include the inservice training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained. [Section 613(a)(3) 89 Stat. 782]

The Final Regulations implementing Public Law 94-142 provide that state educational agencies must include data in their annual program plans which detail the current level of personnel and the number of additional personnel needed for special education and related services, including:

School psychologists, school social workers, occupational therapists, physical therapists, home hospital teachers, speech-language pathologists, audiologists, teacher aides \* \* \* and other instructional and noninstructional staff. [45 CFR § 121a.126(b)(2)]

The regulations also outline the procedures to be followed by the states in providing for and reporting on personnel training programs designed to remedy personnel deficiencies and to assure the ongoing training of existing personnel. [45 CFR § 121a.380-383]

According to the Bureau of Education for the Handicapped, the needs of specific disability specialists far outweigh their current availability. The number of teachers for the speech impaired in 1976-1977 was 18,390, but the estimated need in 1978-1979 was 22,254. In 1976-1977 there were 8,787 teachers of the hearing-impaired, but by 1978-1979 an estimated 13,768 were needed.<sup>2</sup>

The services provided by speech-language pathologists and audiologists are important with respect to (a) identification, evaluation, and treatment of speech and hearing impaired children; (b) instruction and counseling for children with communicative disorders; and (c) aiding children in overcoming communicative handicaps which are a barrier to success in their overall educational development. As with any handicapping condition, the provision of quality services to the communicatively handicapped depends on a realistic professional-to-student ratio. Just what an appropriate ratio is depends, in turn, on factors such as school location and classroom setting, the age groups involved, the severity of individual student's handicaps, and the existence of other handicapping conditions.

The BEH Report to Congress reveals that there is a nationwide average of one speech teacher/speech-language pathologist for every 44 speech impaired children. However, in some states the ratio was close to 1:100.<sup>3</sup> An ASHA survey of local school districts found that the average caseload during the 1977-1978 academic year was 58 speech impaired pupils for every speech-language pathologist. However, the caseloads ranged from a low of 1.20 to a high of 1:150. The projected average caseload needed by 1980 is 44.5 children, with a range of 12-75 per speech professional.<sup>4</sup>

The situation is even more critical with regard to services for hearing impaired children. ASHA estimates that of every 10,000 school age children 57.5 can be expected to suffer from some kind of hearing impairment. The audiologist plays a dual role in the public schools. He must be involved with the screening of all children in order to identify those with hearing losses, and must provide necessary services to those who have been identified as hearing impaired.

It is nearly impossible for the few available audiologists to adequately carry out both functions.

The ASHA survey found an average of only 1.41 audiologists per school district in 1978-1979, an actual decrease from the number in the previous school year. The availability of audiologists varies greatly among the states, but in no state is the number sufficient to meet the hearing conservation and audiologic rehabilitation needs of the student population. In Georgia the audiologist-pupil ratio is 1:20,000. In Ohio and South Dakota the ratio is 1:10,000. In Kansas the ratio is 1:7,000.<sup>5</sup> In the area of hearing services, the appropriate staff-pupil ratio depends to a large degree on the range of services that are to be provided. A lower ratio is appropriate when audiologists provide comprehensive assessment and rehabilitative services and not just identification and evaluation services. This Association, along with the Conference of Executives of American Schools for the Deaf, has determined that when audiologists are involved in providing special instructional and habilitative services in an educational setting, there should be a minimum of one audiologist for every 75 hearing impaired children.<sup>6</sup> However, if a school district desires adequate screening of its students as part of a preventive health program, a considerably larger number of audiologists is needed to serve both the general and the hearing impaired student populations.

The lack of sufficient numbers of speech and hearing specialists makes it impossible for many school districts to comply with the mandate of "appropriate" educational opportunities for all. Where there are not enough professionals, case-

<sup>2</sup> Bureau of Education for the Handicapped, U.S. Department of Health, Education, and Welfare, Progress Toward a Free Appropriate Public Education: A Report to Congress on the Implementation of Public Law 94-142, The Education for All Handicapped Children Act (January 1979), p. 192, Table D8.4. Note: the figures in this statement are correct, although the tables in the BEH Report are mislabeled. Individual state counts are not uniform because some states included both speech-language pathologists and teachers of the speech impaired while others included one or the other. One state counted speech-language pathologists among teachers for the learning disabled. Similarly inconsistent combinations occurred in state counts of audiologists, teachers of the hearing impaired, itinerant teachers, and counselors of the deaf and hard of hearing.

<sup>3</sup> *Ibid.* p. 57; p. 190, Table D.2.1.

<sup>4</sup> "Language, Speech, and Hearing Programs in the Schools," American Speech-Language-Hearing Association (1978).

<sup>5</sup> *Ibid.*

<sup>6</sup> American Speech-Language-Hearing Association and Conference of Executives of American Schools for the Deaf, "Guidelines for Audiology Programs in Educational Settings for Hearing Impaired Children," *Asha*, Vol. 18, No. 5 (May 1976): 201-204.



loads are high. And where caseloads are high, proper attention to individuals is impossible. The disappearance of appropriate personal instruction when caseloads are excessive and classrooms are overcrowded is not always obvious in the reporting of hours of service. A speech-language pathologist might carry a caseload of 80 children and attempt to work with each child every week. For the individual pupil, this might mean enrollment in a group with three other children for a half-hour session twice a week. The child will receive only eight hours of instruction. It is easy to see from this example that the actual size of a specialist's caseload is critical to the likelihood or unlikelihood of adequate instruction.<sup>9</sup>

#### AUDIOLOGIC SERVICES

Hard of hearing children have been referred to as the "forgotten population" in our public schools.<sup>10</sup> Although hearing impairments may afflict as much as three percent of the schoolage population,<sup>11</sup> only a small portion of these handicapped students have received special education and related services in the public schools. A study by the Rand Corporation in 1974 reported that about 440,000 public school children could be labeled hard of hearing, but that only one in five was receiving appropriate services.<sup>12</sup> In 1975-1976, around the time Public Law 94-142 was being enacted, approximately 20 percent of all hard of hearing school children were receiving services.<sup>13</sup> The most recent estimates by BEH indicate that only 30 percent of this category of handicapped students are currently receiving services—although the law mandates that all handicapped children should now be receiving appropriate special education and related services.<sup>14</sup>

Children with a slight to moderate hearing loss do not usually exhibit the more overt characteristics associated with severe hard of hearing and deaf persons. For many children, hearing difficulties are often undetected or overlooked, while their failure to learn is attributed to limited mental ability, behavior problems, poor motivation, or lack of interest. Even students whose hearing difficulties are recognized may not receive appropriate instructional and rehabilitative services. Sometimes this is due to the regular classroom teacher's lack of knowledge about children with disabilities and how to deal with them. At other times, appropriate educational services are not forthcoming because of conflicts over roles and responsibilities among the professional staff who come into contact with the students. Often the problem is due to the unavailability of appropriate personnel. This is certainly true with respect to audiologic services. For the 1977-78 school year, BEH found that there were 700 audiologists employed in the Nation's schools. Yet, based on the previously cited minimum need of one audiologist for every 75 hearing impaired children and BEH's finding of 88,362 hearing impaired and deaf students in 1978-1979,<sup>15</sup> there would appear to be a need for at least 1,151 audiologists—just to provide needed services to those actually identified as having hearing disorders.

Under the Education for All Handicapped Children Act, audiology is broadly defined to include (a) identification of hearing impaired children; (b) determination of the nature and extent of hearing loss; (c) provision of habilitative services such as language habilitation and speech reading (lip reading); (d) programs dealing with the prevention of hearing loss; (e) counseling and guidance of pupils, parents, and teachers regarding hearing loss, and (f) determining the need for and providing amplification, including hearing aid selection, fitting, and orientation. [45 CFR, § 121a.13(b)(1)]

The provision of these audiologic services has been generally unavailable to public school children in the past. But now, under Public Law 94-142, the services are mandatory. If a child's individualized education program states that

<sup>9</sup> See Stan Dublinski, "Public Law 94-142: Developing the Individualized Education Program," *Ashe*, Vol. 20, No. 6 (May 1978): 380-392.

<sup>10</sup> Julia Davis (Ed.), "Our Forgotten Children: Hard of Hearing Pupils in the Schools." A publication of the National Support Systems Project under a grant from the Division of Personnel Preparation, Bureau of Education for the Handicapped. (U.S. Office of Education, Department of Health, Education, and Welfare, 1977).

<sup>11</sup> P. Phillips, "Speech and Hearing Problems in the Classroom" (Lincoln, Nebraska: Cigna Notear Inc. 1975).

<sup>12</sup> G. D. Brewer, and J. S. Kalkik, "Improving Services to Handicapped Children." (Santa Monica, California: Rand Corporation, 1974).

<sup>13</sup> Bureau of Education for the Handicapped (U.S. Office of Education, Department of Health, Education, and Welfare, 1976).

<sup>14</sup> "Report of Handicapped Children Receiving Special Education and Related Services as Reported by State Agencies Under Public Law 94-142 and Public Law 90-313 School Year 1978-1979." Bureau of Education for the Handicapped (U.S. Office of Education, Department of Health, Education and Welfare, 1979).

<sup>15</sup> Ibid.



audiologic services and hearing devices are essential to an appropriate education, then these must be provided. Moreover, the regulations require state and local education agencies to "insure that the hearing aids worn by deaf and hard of hearing children in school are functioning properly." (45 CFR § 121a.203) In an attached comment, it is noted that Congress "expects [that] the Office of Education will ensure that hearing-impaired school children are receiving adequate professional assessment, follow-up and services."

Despite Congressional intent, some state and local education officials have balked at the prospect of using Public Law 94-142 funds for the purchase, maintenance, and professional management of hearing aids. One argument used by these officials is that hearing aids utilized to facilitate educational services are already provided through Medicaid and Material and Child Health and Crippled Children's programs. The difficulty with this argument is that these programs serve only a portion of the total handicapped population—children from socio-economically disadvantaged families and some who reside in rural areas. In the vast majority of cases, hearing aids used by school children have been purchased privately.

Other education officials claim that their responsibility to use public funds for hearing aid procurement and servicing is limited to the utilization of the devices in the school setting. If such devices are also needed outside the classroom—at home or elsewhere—then the responsibility for providing them should not belong to the education agency. We believe that these attitudes are counter to the purpose of the Education for All Handicapped Children Act. They represent an extremely narrow definition of the education concept. Public Law 94-142 is based on the idea that an appropriate education requires the participation of children, parents, regular and special education teachers, and disability specialists, and that learning is not confined to the classroom, but extends throughout the child's academic and social environment.

Cooperation is the key to making this Act work—cooperation between Congress and BEH, between the federal government and the states, between state and local education agencies, between public and private education and health organizations, between parents and school personnel.

In closing, Mr. Chairman, I would like to thank you for inviting us to testify at these important hearings. I want to restate this Association's support of the Education for All Handicapped Children Act and our eagerness to work with this Subcommittee in a continuing effort to make the promise of this law a reality.

#### **STATEMENT OF ROGER P. KINGSLEY, Ph. D., DIRECTOR, FEDERAL AFFAIRS OFFICE, AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION**

Mr. KINGSLEY. I am Dr. Roger Kingsley, director of the Federal Affairs Office of the American Speech-Language-Hearing Association.

I, too, would like to ask that the prepared statement be submitted for the record, and I will summarize some of the points in that statement.

Mr. STACK. Without objection, your statement will be included in the record.

Mr. KINGSLEY. Thank you.

One area I will not comment on is my thought, or concern with funding of Public Law 94-142, and some recommendations in that area. I think we all understand the critical need for full funding of education for the handicapped; and our concerns and recommendations are in the full statement.

The American Speech-Language-Hearing Association is grateful for the opportunity to present its views on the Education for All Handicapped Children Act.

The association represents over 32,000 speech-language pathologists and audiologists. These health and education professionals are con-

cerned with the system, functions, and processes, of normal and abnormal human communications. 10 million Americans suffer from speech disorders, and another 14 million suffer some degree of hearing loss. \*

Language, speech, and hearing disorders are commonly found among the very young. Because the ability to communicate effectively is so fundamental to other life activities, any loss or limitation of this ability can be detrimental to individual human development and performance.

Public Law 94-142 stands as one of the landmark pieces of legislation concerning equal educational opportunity for all American children. Today, however, the goals established by Congress to achieve a free and appropriate education for handicapped children are still a long way from being realized. With governmental and public concern over inflation and balanced budgets, the resources needed to fulfill these goals have been placed in jeopardy. As American consumers, we share in the general concern over economic problems, but we also know that such problems must not be allowed to interfere with the fulfillment of basic American rights, like equal educational opportunities.

In *Brown v. Board of Education*, the Supreme Court placed the individual's right to an equal education above the prerogative of any governmental entity to act or fail to act in a manner that would impede that right. The realization that millions of handicapped children were not being educated on free, equal, and adequate terms, led to the gradual extension of the court's decision to this sector of American society.

Since implementation of Public Law 94-142 began several years ago, this association has surveyed its members in the schools in order to learn their views on how well or poorly the act has been working on the local level. Speech and hearing professionals feel most positively about the increased level of parental involvement in the children's overall schooling. They also believe that communication has been furthered among the parties involved in developing IEP's, including parents, teachers, and disability specialists. General improvements in goal setting, long-term planning and recordkeeping, and in the organization and delivery of services were also reported.

Serious problems remain, however, in the movement toward achieving appropriate educational opportunities and settings for all handicapped children. According to many members, inadequate funding is a critical reason why implementation of the act has proven difficult. The law requires compliance according to a set timetable, but the resources required for such compliance have not been allocated in a corresponding manner. There is also general consensus in the field that class loads, and caseloads remain too high. Insufficient levels of personnel result in children receiving inadequate or inappropriate special education and related services, and in many cases not receiving any assistance at all.

There is also a great deal of concern that many children with language, speech, and hearing impairments are not being counted as handicapped. A study conducted by this association's school services program showed that school districts did not come close to fulfilling the

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requirement that all handicapped children aged 5 to 18 be enrolled in programs designed to fit their special needs.

Of 132 school districts surveyed, 90 districts reported a total of 53,436 speech impaired children who needed special education and related services, but were not receiving these needed services.

A particularly serious problem exists among hearing-impaired children because professional services and aids to facilitate learning are being limited by severe personnel shortages, as well as the failure by education officials to implement various provisions of the law.

In my remaining time I would like to touch on two of the problem areas, personnel deficiencies and special problems of hearing-impaired children. The availability and utilization of specialists to deal with the various disabilities is integral to the achievement of appropriate education for handicapped children. For this reason, there must be a continuing expansion of programs, trained teachers of special education, as well as pupil service professionals, such as audiologists, occupational therapists, and school psychologists. Instead of being expanded, however, these programs of personnel development are now being cut back. Existing shortages of personnel need to be alleviated and not made worse.

The Bureau of Education for the Handicapped report to Congress reveals that there is a nationwide average of one teacher for speech-impaired, or speech-language pathologist, for every 44 speech-impaired children. This is probably an extreme underestimate since many children have other, primary handicaps and are not being counted in speech-language categories. Even using this conservative approach, some States were found to have ratios close to 1 to 100. The survey by this association found ratios as high as 1 to 150.

The situation is even more critical with regard to services for hearing-impaired children. This association estimates that of every 10,000 school-aged children, 57.5 can be expected to suffer from some kind of hearing loss.

The audiologist plays a dual role in the public schools; he must be involved with the screening of all children in order to identify those with hearing losses, and he must provide necessary services to those who have been identified as hearing impaired. It is nearly impossible for the few audiologists in the school system to adequately carry out both of those functions. The availability of audiologists varies greatly among the States, but in no State is the number sufficient to meet the hearing conservation and audiologic rehabilitation needs of the student population.

In Ohio and South Dakota, for instance, the audiologist-student ratio is 1 to 10,000. In Georgia, the ratio is 1 to 20,000. The lack of sufficient numbers of speech and hearing specialists makes it impossible for many school districts to comply with the mandate of appropriate educational opportunities for all. Where there are not enough professionals, caseloads are high, and where caseloads are high, proper attention to individuals is impossible.

Hard-of-hearing children have been referred to as the "forgotten population" in the schools. Although hearing impairments afflict at least one-half percent and as much as 3 percent of the school-age population, only a small portion of these handicapped students have

received special education and related services in the public schools. Children with a slight to moderate hearing loss do not usually exhibit the more overt characteristics associated with severe hard-of-hearing and deaf persons. For many children, hearing difficulties are often undetected or overlooked, while their failure to learn is attributed to limited mental ability, behavior problems, poor motivation, or lack of interest.

The provision of these audiologic services has been generally unavailable to public-school children in the past. But now, under Public Law 94-142, the services are mandatory. If a child's individualized education program states that audiologic services and hearing devices are essential to the appropriate education, then these must be provided. Moreover, the regulations require State and local education agencies to insure that hearing aids worn by deaf and hard-of-hearing children in school are functioning properly.

Despite congressional intent, some State and local education officials have balked at the prospect of using public funds for the purchase, maintenance, and professional management of hearing aids. One argument used by those officials is that hearing aids utilized to facilitate educational services are already provided through medicaid, maternal and child health, and crippled children's programs. The difficulty with this argument is that these programs serve only a portion of the total handicapped population, children from socioeconomically deprived families and some who reside in rural areas.

Other education officials claim that their responsibility to use public funds for hearing aid procurement and servicing is limited to utilization of the devices in the school setting. If such devices are also needed outside the classroom, at home or elsewhere, then the responsibility for providing them should not belong to the education agency. We believe that these attitudes are counter to the purpose of the Education for All Handicapped Children Act. Public Law 94-142 is based on the idea that an appropriate education requires the participation of children, parents, regular and special education teachers, and disability specialists, and that learning is not confined to the classroom but extends throughout the child's academic and social environment.

In closing, Mr. Chairman, I would like to thank the committee for holding these hearings and for inviting us to testify. I want to restate, this association supports the Education for all Handicapped Children Act, and we are eager to work with this subcommittee in a continuing effort to make the promise of the law a reality.

Mr. STACK. Doctor, we very much appreciate your very informative statement. I might just add a personal note to reinforce what you have said.

At one time I served as the sheriff of a county of a million people in Florida, and because I had a background in education, I decided at one point to run in a local juvenile detention facility tests on the children that were in that institution. The results showed that all of the children had some sort of learning disability. What I am suggesting is that there is a distinct correlation between the tendency to commit a crime—to become involved with the judicial system, I should say—and learning disabilities of one kind or another. Chief among them certainly were audio and visual and other handicaps. But all these

youngsters, every one of them, had a learning disability of one kind or another.

As I recall it, the disabilities led to problems with learning achievement. They were approximately 3 to 4 years behind their peer groups in the school system. Obviously, it is easy to see why children oftentimes become involved in social problems of one kind or another. It would certainly not do much for society to just take them and lock them up, but this was the case.

So, you are speaking to an area where I personally fully agree that this must be a very high priority.

Are there questions? If not, we do thank you all for coming. I have found this a very interesting and informative morning. I think of this as one of the periods of my service in the Congress that I find most provocative, to see and hear from people who are involved in the kind of situation we are addressing here. I think you give us hope that our society in the future will be a lot better as a consequence of the involvement of so many of you fellow citizens, who are doing this thing. You give us the inspiration to continue to work in this field.

I must say, the service on this committee is one of the greatest satisfactions I have in being in the Congress because I do see that it does provide hope for our children, which is indeed hope for the future. So, we do thank you very much.

[Whereupon, at 1:20 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



**OVERSIGHT OF PUBLIC LAW 94-142—THE EDUCATION  
FOR ALL HANDICAPPED CHILDREN ACT**  
**Part 1**

**TUESDAY, OCTOBER 16, 1979**

**HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SELECT EDUCATION OF THE  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, D.C.**

The subcommittee met at 9:45 a.m., pursuant to call, in room 116 House Office Building, annex No. 1, Hon. Edward J. Stack presiding. Members present: Representatives Simon, Stack, Beard, Kramer, Erdahl, and Coleman.

Staff present: Thomas Birch, counsel; Sylvia Corbin, executive secretary; and Terri Sneider, minority legislative associate.

Mr. STACK. If I may, I would like to call the subcommittee to order.

This is a continuation of the hearings being conducted by the Subcommittee on Select Education in regard to Public Law 94-142, which deals with the education of all handicapped children. We are very pleased to have this morning, as our first witness the Honorable Jeannette Reibman, senator from the State of Pennsylvania.

I might point out that I am a graduate of the University of Pennsylvania Law School, and also Lehigh University, so I have some ties with the State of Pennsylvania.

If you would proceed, we will be pleased to hear you.

**STATEMENT OF HON. JEANNETTE REIBMAN,  
PENNSYLVANIA STATE SENATOR**

Mrs. REIBMAN. Thank you.

Members of the subcommittee: I am pleased to have this opportunity to share with you some of the major issues regarding Public Law 94-142, The Education of All Handicapped Children Act and its application in Pennsylvania.

My name is Jeanette Reibman, and I represent the 18th senatorial district in Pennsylvania. I am chairman of the Senate Education Committee, and have served in the senate and the house educational committees in Pennsylvania for some 23 years.

I am also a commissioner from Pennsylvania to the Education Commission of the States, and have served on that agency's executive board, and as chairman of the ECS policy committee. My remarks today are in behalf of the Education Commission of the States.

The major point I want to emphasize today is that the mandate of Public Law 94-142 to administer education programs to all handicapped children depends on full Federal appropriation of funds.

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Pennsylvania was an early entrant into the field of special education. We were among the first States to offer programs to educable handicapped children. Since 1972, the State has been supporting educational services for all exceptional children.

As it is today in Pennsylvania, education is available not just for mentally and physically handicapped children, but also for the gifted and talented. Until very recently, indeed until the advent of Public Law 94-142, the cost of these programs was borne largely within the State.

The major thrust of Public Law 94-142, namely, the appropriate placement of handicapped children, with procedural protections, had been mandated by Pennsylvania law for several years, even prior to enactment of Public Law 94-142. It was in this context that the decision was made in Pennsylvania to accept the mandates of Public Law 94-142.

I can assure you that Pennsylvania did not accept the mandate lightly. To illustrate our commitment, I can cite you several examples. For the 1978-79 school year, Pennsylvania served an estimated 235,000 exceptional children at a cost of \$816 million this year. Of this amount, 85 percent was provided by the State.

Pennsylvania does spend Federal dollars on special education, nearly \$36.7 million this year. These moneys are spent the same year they are received, while other States carried their allocations over from 1 year to the next.

Pennsylvania's 1980 State plan was the first plan of the major States to be approved. We have already allocated Federal special education dollars to local education agencies which are spending the money. Only seven States have approved 1980 plans, and about seven States still have not had their 1979 plans approved.

Since 1975, Pennsylvania has served nearly 1 million children. For 1979-80 alone, we are serving 237,903 children in 14 categories of exceptionality.

In the current fiscal year, we are spending \$359.4 million in our educational efforts in Pennsylvania for handicapped children: \$45.3 million are from Federal funds, \$53.6 million are in Federal revenue sharing moneys, and \$260.5 million in State funds.

The revenue sharing moneys going to special education comprise 48 percent of the total revenue sharing fund in Pennsylvania. Thus, Pennsylvania receives slightly less than \$100 million from the Federal Government for special education and provides nearly 2½ times that from its State revenue.

Fiscal constraints which are now beginning to be felt in Congress have been evident in Harrisburg for some time. Over the past 2 years, the general assembly has had to appropriate sizable amounts of money just to maintain existing special education programs, and we are doing good just to keep up. Thus, the Federal money, primarily the money generated by Public Law 94-142, has been used to finance expansion of programs required by these various Federal mandates.

Unfortunately, we are dependent on Federal funding to meet the obligations of Federal law. From the perspective of Pennsylvania's experience, let me share with you some ways to help States meet the

responsibilities under this act, but let me say at the onset that only full funding can allow us to validly evaluate the provisions of Public Law 94-142 and our efforts as a nation in providing appropriate education for all handicapped children.

As you know, the statute provides a formula for allocating to the States based on an escalating percentage of the average per pupil expenditure for elementary and secondary schools in the States.

In 1977-78, Pennsylvania was authorized to receive \$13.8 million and received that amount. In 1978-79, Pennsylvania was authorized to receive \$23.3 million and we received that amount. The authorization for 1979-80, however, was estimated at \$34 million. Pennsylvania received a Federal appropriation of only \$36.7 million, some \$17 million short of the estimate. The authorization for 1980-81 for Pennsylvania is \$104.4 million.

We now estimate that the appropriation, however, will be only \$40 million; that is some \$64.4 million short of our expectation. The law, when it was implemented, began percentage reimbursement at 5 percent for fiscal year 1978, and increased that to 40 percent for fiscal year 1982.

When the law was enacted, of course, we were encouraged. Public Law 94-142 was the first time that Congress had exhibited such a strong interest in supporting our State's efforts to provide education to all handicapped children. We were further encouraged when the law was funded fully in the first 2 years. As a legislator, I am all too aware of the complaints by constituents and local agencies when our general assembly mandates programs and fails to provide funding at the authorized level.

It appeared in Public Law 94-142 that although it contained strict mandates, Congress was willing to support these mandates with increasing amounts of Federal money. The experience of the past year and the forecast for the coming year leaves me less encouraged.

Pennsylvania with the underfunding of Public Law 94-142, we, in the general assembly and the department of education, and the local school districts, find ourselves in a very difficult position. We find that the authorization levels have created false expectations for school personnel and handicapped children and their parents. More specifically, failure to fund the law has resulted in many problems, and I will cite a few:

One: School personnel, children and their parents have been misled about the level of services that were to be available under the law. Expectations have been raised, special needs identified, but the promised Federal money is not forthcoming.

Two: It would be difficult to continue child find efforts since school districts are reluctant to identify children who need services when funds for their services are inadequate.

Three: It would be difficult to expand programs for the underserved, as school districts would be unwilling to implement new programs without funding.

Four: The expansion of services to the public and nonpublic schools would likewise be hampered. Since Pennsylvania is dependent on Federal funding for expansion of existing programs in these areas, it poses a severe problem for our State. This is of paramount importance because we wish to continue improving the access of nonpublic school

children, as well as public school children to these programs, and find that our efforts are hurt by the lack of financial support.

With the underfunding of Public Law 94-142, I have heard of local school districts in Pennsylvania which manipulate child counts in order to continue to qualify for maximum levels of Federal support. Some have allegedly shifted children from one exceptionality to another in order for that school district to continue its eligibility under Federal thresholds.

This tinkering with child counts has had an impact on our State's mechanism for providing support for educational services for the handicapped. Full funding, I feel, would diminish these incentives to play with the figures.

The rising expectation of parents of handicapped children which are directly attributable to Public Law 94-142 have cost an even more serious potential fiscal problem for Pennsylvania.

The Pennsylvania Supreme Court in the *Armstrong v. Kline* case held that educational services provided by the State under Public Law 94-142 cannot be limited to this additional 180-day school year.

Pennsylvania through State statutes has severed the fiscal support for maintenance services for handicapped children from the support for educational services for all those children placed outside of the public school setting.

Elaborate funding mechanisms have developed and are already in place to have the State department of public welfare and the county governments share responsibility for paying for residential services. While the State department of education and the local education agency share in the education costs.

If the *Armstrong* ruling stands, not only will local districts in the State find that their bill for general education services to the handicapped will be greatly increased, but we will have to rework the complex arrangement of who pays for what services.

I want to come back to the *Armstrong v. Kline* court ruling later in the testimony because it poses some very serious implications for Public Law 94-142.

Allow me to make these general recommendations relative to Public Law 94-142, which are based on the Pennsylvania experience.

One: It is important that adequate funds be appropriated so that the States will be able to meet Federal requirements. Inadequate funding indicates that there is only a Federal policy of serving handicapped children, not Federal support for that effort. We need to put the money where our priorities are. I would, therefore, recommend that we fully fund Public Law 94-142.

Two: It is important to recognize that States such as Pennsylvania which are implementing the law are penalized, sometimes, for their wholehearted efforts. Appropriations levels for all States are reduced if significant amounts of funds are carried over. States which have indicated a commitment by fully spending appropriated funds should not be penalized by the underspending of other States. The reallocation of unspent funds after 12 months should be authorized to a State who has used its respective funds.

Three: If full funding is not possible in the foreseeable future, then perhaps the requirements of 94-142 should be decreased. This would

permit States to implement services in proportion to available funding. Such services could include preschool programs, and central support services such as psychological staff and IEP development.

I would like now to draw your attention to recommendations which I would like to make for technical changes in the law:

One: The definition of related services is vague. The provision requiring these services defines them as those services which may be required "to assist the handicapped child to benefit from special education." Virtually any social, therapeutic, diagnostic, or developmental service could be of assistance to the handicapped child and, therefore, the current definition gives little guidance to local school districts as to the level or type of service which should be provided.

This definition could be changed to include those services ancillary to the instructional programs which are necessary for a child to benefit from special education. This would limit the type of services to be provided and indicate a minimum level of mandated services. Because the present definition of related services is so broad, problems exist in terms of the scope of services which are to be provided.

The definition also seems to blur the distinction between treatment and educational services. In some quarters, related services include intensive psychotherapy, chemotherapy, nursing services, and other thorough sources of treatment. Others argue that physical and occupational therapy must also be provided if related services are to be of any corrective effect whatsoever on the child.

Even if these services are not directly related to the child's classroom program, the related services definition and the way it has been interpreted has had a three-pronged effect on the public school system:

First: By making it appear that the school districts are responsible for treatment as well as education, the act has taxed the very limited resources the school districts have.

Second: This provision of the law created an expectation that public schools now must provide services that are both well beyond their expertise and traditional role, and more properly within the province of the health treatment delivery system.

Third: The local school districts do not have their resources or often the State legal mandate to provide treatment-type services. They are forced to rely on State welfare and State agencies to provide such services. Because, in turn, these other State agencies operate under separate statutory and administrative schemes, the public schools and the State education agency are left virtually no say as to how, when, or to whom treatment-type services are given.

In Pennsylvania, a very complex and intricate relationship has been developed between treatment or maintenance on the one hand, and educational services on the other, with separate elaborate mechanisms for funding both types of services.

School districts and the State department of education have no control and no financial stake in the delivery of those services. However, because of the vagueness of the term "related services," a public expectation is that the educational system will deliver these treatment services. Consequently, the public schools are being blamed when therapeutic treatment is not available, is not appropriate, and is not free.



Specifically, I would ask that you consider that the law requires State education agencies and the local school districts to provide only those services which public schools are empowered to provide under existing law, and that the assignment for full funding and responsibility for therapeutic and corrective services should be given to those State agencies which are already authorized under State law to provide them.

Two: The second area of technical change I would like to call your attention to emanates from the *Armstrong v. Kline* court ruling on the application of Public Law 94-142.

The Pennsylvania Supreme Court, in ruling that educational services cannot be limited to the 180-day regular school year, stated that such services must be directed toward guaranteeing the maximization of the learning potential the handicapped child who regresses during the summer months or weekends.

This ruling places unprecedented responsibility on the public schools to provide year-round services and to guarantee the success of these services. *Armstrong v. Kline* has a potential for radically expanding the school year for all handicapped children, as well as the responsibility of the public school system.

States are currently straining to generate enough money to provide educational related services during the conventional school year. In Pennsylvania, the general assembly this year increased the appropriation for basic instruction costs by nearly \$125 million. Requiring school districts to operate year-round programs for the handicapped would force the State to do one of two things: Either Pennsylvania will be required to dramatically increase support for special education services, or we will be forced to divert funding from the education of "normal children" to provide for year-round programs for the handicapped child. Neither are attractive or affordable options.

The Pennsylvania Supreme Court also held in the *Armstrong* case that Public Law 94-142 required the public schools to guarantee that students will not regress in learning or behavior during the periods of noninstruction, regardless of home environment, past educational settings or programs, or the health of the child.

For seriously disturbed and severely retarded children, this means that public schools will have to provide year-round custodial care placement for children who act up at home and then cannot be controlled in school. They will have to do this either onsite in the public schools, or by purchasing these services.

While it is only humane to be concerned about "backsliding," it is ridiculous to ask public schools to become total care-givers for these children in the name of preventing behavioral regression, particularly when the problems of some of these children stem chiefly from psychological, physiological, or home factors rather than mere learning problems.

It is arguable that the Congress, by enacting Public Law 94-142, intended that the public schools become a total care system for the handicapped, that they should prevent regression while a child is out of school, and that they should guarantee that each child's behavioral progress continues under all circumstances.

Congress must make it clear as to whether or not this was their intention, and if it was, it should try to provide the funding necessary to reach these goals.

The Pennsylvania Department of Education has estimated that the *Armstrong* decision may end up by costing the Commonwealth between \$200 million and \$500 million more a year. The general budget for Pennsylvania is currently slightly more than \$6 billion. Education already currently makes up 42 percent of that budget. As you can see an increase of up to \$500 million could require a significant increase in the Commonwealth's general fund revenues.

Either we would have to raise our taxes—\$500 million would require raising our income tax by another 1 percent—or shift money from other areas. Shifting \$500 million from our basic instruction subsidy would involve a transfer of one-third of the State money now allocated for that purpose.

Another potential effect of the *Armstrong* decision is the expansion of educational access and opportunity for the nonhandicapped. Just as the implementation of IEP's for handicapped children has led to some pressure for the provision of IEP's for "normal students" and just as the level of funding for handicapped children has led to demands for increased funding for educational programs for nonhandicapped children, the *Armstrong* decision has brought requests from parents of many regular students for year-round and summer education programs which the parents feel are going to be mandated for the handicapped.

Pennsylvania's Secretary of Education has said that if the *Armstrong* interpretation of Public Law 94-142 ends up costing substantially more than funds we receive under that Act, Pennsylvania will have no choice but to return the money, and operate our programs for exceptional children under State law.

I feel safe in saying that the General Assembly of Pennsylvania, which has already the third highest State allocation for special education in the Nation, will concur with the Secretary.

Specifically, I would ask that you clarify Public Law 94-142 by making the following changes:

First: By indicating that although States are permitted to operate programs beyond the regular school year, in no way are they required to provide programs beyond their State mandated school year, school week, or school day.

Second: While Public Law 94-142 was intended to assure the access of the handicapped to the educational system through a system where instruction is individualized to meet the child's needs, Congress should establish that it was not intended to mandate any specific end result, such as the maximization of potential or the prevention of regression.

The maximization of potential, for example, is one of the ideals of education, and the prevention of regression, while an educational concern, is more appropriately a concern of the treatment delivery system.

There are other areas to which I would direct your attention for technical changes in the law, rather than speaking in any depth in these areas, let me quickly list them.

The individualized education plan procedure merits further study. In particular, ways should be found which can speed up the process

without eliminating procedural safeguards for the parent and the child.

A second area which should be re-evaluated is the supervisory responsibilities of the State education agency, particularly in those areas in which that agency is placed in a position of guaranteeing services which are outside the area of its expertise and responsibility.

I believe that these suggestions to improve Public Law 94-142 will enable our schools to more adequately provide educational programs for all of our handicapped children, a goal which all of us in the educational community heartily support, whether we work on the State, Federal, or local level.

In closing, I want to thank the chairman and the committee for hearing my testimony on behalf of both the Education Commission of the States and my home State of Pennsylvania.

Let me emphasize that Pennsylvania, as well as many other States, has had a long standing commitment to the education of the handicapped. Our efforts have been supplemented by Public Law 94-142. In Pennsylvania, our experience with State law and the national law 94-142 has resulted in the development of an effective and efficient delivery system for children.

The insights of Pennsylvania and other States, I think, should be invaluable to you in your work. I am not here today because I, or Pennsylvania, or the ECS, are opposed to education of the handicapped. No, on the contrary, Pennsylvania, for example, early on accepted the responsibility to educate its exceptional children.

I want to say that I am not necessarily even upset by the Federal statutes or the regulations implementing those laws. The core of what I am suggesting today is that efforts be made to relate the mandates of Federal law to the levels of Federal funding and that there be greater coordination between State and Federal initiatives in special education. We should not be adversaries, but full partners in educating our exceptional children.

Thank you.

Mr. STACK. Thank you, Senator.

Mr. Erdahl, do you have any questions you would like to pose?

Mr. ERDAHL. Yes, thank you, Mr. Chairman.

I would like to thank Senator Reibman for her very thorough testimony, and the specifics that she brought out. I think your last paragraph underscores the main thrust of it, and that is if we, in the Congress, mandate the various programs to the several States, then it becomes incumbent upon us that we also provide the necessary funds. I, like many of my colleagues, came out of the State legislative body, and it strikes a responsive chord.

I have no specific questions. I just want to thank you for your detailed testimony.

Mrs. REIBMAN. Thank you very much.

I might say, too, my hair has grown gray in the service of trying to provide funds.

Mr. STACK. Mr. Coleman, any questions?

Mr. COLEMAN. No, Mr. Chairman.

Mr. STACK. Mr. Kramer?

Mr. KRAMER. Thank you.

I appreciate the testimony. It was very interesting.

In general, do you feel that the Federal requirements that have been imposed through the individual education plan are working? Are they practical? Is it possible to really get a true consensus from three, four, or five participating people from a variety of disciplines? Is it really happening?

Mrs. REIBMAN. I think that it is really happening. It is very time consuming. It has also been very extensive in its first implementation. However, I do not see it as an obstacle. As a matter of fact, I would like to see IEP's for every child, handicapped or otherwise. The philosophical goal of education is to meet the needs of each individual child, and I would like to see that happen.

Mr. KRAMER. Where do you draw the line between education and treatment?

Mrs. REIBMAN. It is very difficult, and I think the definition that is in the present law now is quite vague. When we say "related services to assist the child to benefit from special education," that can cover a whole multitude of services that would benefit the child, but they are not necessarily education related. They may be more health related.

I think, more appropriately, those services—if you will turn to the bottom of pages 6, 7, and 8 of the testimony—would be better provided if they were done through the health delivery system.

Mr. KRAMER. What problems, in terms of the technical competence of the teaching community to meet the requirements of the Act, are you familiar with, or have you encountered?

Mrs. REIBMAN. I really have not. We have a system of intermediate units in our State, which is a configuration of several school districts which provide services to school districts, which they cannot provide on their own. Most of the special education has been lodged within the intermediate unit. That is a service agency between the local school district and the State department of education.

The intermediate units have been in the forefront in having inservice training, and planning together for a number of school districts. I think that they have been very successful in helping individual teachers to pinpoint, to spot the problems, to be aware of handicapped and to identify them, and to recognize when it is necessary to bring in additional help, or even how to teach some of these children who are minimally handicapped. I think that this is an important consideration.

It is the planning and the inservice training for teachers particularly since handicapped children are mainstreamed into the regular classroom.

I do hear complaints from several teachers that severely handicapped children, it is very difficult for them to handle them in the regular classroom setting. Like all State legislatures, if we could appropriate more money, we could probably hire more aids to help them.

Mr. KRAMER. This is my last question, and I appreciate your indulgence.

I am sure that as a State legislator you find that the cities and towns are complaining to you in the same way they complain to us.

Other than the funding problem that you have alluded to, do you think that the present law as structured meets the problems of handi-

capped education? Would you classify it as meeting present needs at about the right tempo, or do you think that it is overkill? Or, do you think that even more needs to be done legislatively from a Federal perspective?

Mrs. REIBMAN. I don't think that more needs to be done legislatively. I think the act is all encompassing. I think there needs to be the changes that I have suggested. That and full funding I think would answer the problems. The rest we could take care of ourselves.

Mr. KRAMER. Thank you.

Mr. STACK. If I may I would like to add my commendations to you, Senator Reibman, and extend them to the State of Pennsylvania for your initiatives in this area. You have made some very disturbing comments. I think we need to review what we are doing in the light of your testimony.

Basically, as I understand it, what you are addressing is a need to assess the relationship between treatment and education services, and it is a very appropriate observation.

May I ask this, in the delivery of what we call treatment as opposed to education, do you have cooperative agreements with the health delivery agencies for this type of service? How is that handled?

Mrs. REIBMAN. I am really not that expert on how the mechanisms work, except that we do have an elaborate system of the welfare department paying, under contracts, for health services.

Mr. STACK. It is basically contractual services, I take it.

Mrs. REIBMAN. Yes.

Mr. STACK. So you don't have educators please delivering the treatment services.

Mrs. REIBMAN. They can't, they are not qualified. They don't have the expertise.

Mr. STACK. Then you raise, of course, under the *Armstrong v. Kline*, the very serious problem of extending the school year beyond the 180-day, and this is imposing a great, massive burden upon the States. I think that this bears on the next item, which is the last paragraph and summary of your paper. As currently interpreted, Public Law 94-142 is imposing an extra burden on the State of Pennsylvania beyond what you can very well afford to pay. Unless we redefine our goals in Public Law 94-142, we will certainly have to attempt to provide you with additional funds.

This is an attempt to try to summarize the thrust of your testimony. It is certainly well considered, and certainly one to which I will give attention. I will re-read your testimony very carefully because that is certainly a document on which you have obviously spent a great deal of time. I think that it is couched in terms that indicate that you are deeply involved and concerned in this particular law which these hearings have addressed.

One point I would like to make before I ask Mr. Beard if he would like to comment. Prior witnesses before this subcommittee have testified that the age of the child should be lowered in the delivery of services from age 3 down to age zero.

Obviously, Pennsylvania, with your current problems, would not be willing to say that this is the way to go, although theoretically you might agree with it, but financially you would not be able to do so.



Let me say this. Aside from the national constraints, from your own observation, how do you feel about lowering the age in the act down to the earlier limit?

Mrs. REIBMAN. Philosophically, I would favor it, but I think that it needs to be accompanied by sufficient funds to do that. As a parent myself, I am well aware that children learn at a very early age, and I tend to think of it as an investment; if we can teach them properly at an early age, they will not have many of the mistakes imposed upon them, which are very expensive to correct. It is much better to start at the beginning, I think, and teach them well.

Mr. STACK. Overall, then, you are saying that by investing money early on, we might in the long-run save money.

Mrs. REIBMAN. Exactly.

Mr. STACK. And investing it in a very appropriate cause.

Mrs. REIBMAN. If I may add, I think we are prone to rush in with all the crisis equipment after the damage is done, with all of the expensive services such as psychologists and psychiatrists and caseworkers.

After the damage has been done, many times it is too late to reverse. I would much rather see that money spent at the beginning, to prevent the crisis from occurring. I think in the longrun it would be cheaper.

Mr. STACK. This will be my last question. Basically, what I think you are saying to us is this: Unless we can come up with better financing, Pennsylvania would have to opt out, and go on its own, but with a system that has worked quite well in the past.

Mrs. REIBMAN. Yes.

Mr. STACK. Also, you are making the point that we should study the availability of funds under your jurisdiction, and make the funds available to States like yours which have made this a top priority.

Mrs. REIBMAN. I think that that is crucial.

Mr. STACK. All of these perceptions are matters that we should address with considerable concern. We certainly would not want to see the State of Pennsylvania drop out. On the other hand, I think you have appropriate reasons to do so, unless we respond appropriately in both areas that I mentioned: First, more funds overall; second, the reallocation of funds.

Mr. Beard, would you care to comment?

Mr. BEARD. Thank you very much, Mr. Chairman.

I have served on this committee for about 5 years, not this particular subcommittee, but the full Committee of Education, and for 5 years, of course, at various times we have had testimony from various people around the country, continuously complaining about low funds for handicapped children.

I think that the person, or the group that is handicapped, may not be the children, but in a sense it is the Government not having the ability to provide the funds in the first place. Since that is the handicap, since a handicap is a mental or physical disability, if you had the funds available, there would not be a handicap at all. You would get around it.

It runs hand in hand, trying to provide education for handicapped children, and yet the Government is the biggest handicap of all.

State and Federal, still 5 years later, and maybe the year after that. It will never be 100 percent the way it should be.

Mr. STACK. It comes down to where your priorities have to be. I am becoming somewhat impatient with my colleagues who say, "You don't solve problems by throwing money at them." I would like to have a dime for every time I have heard that expression in the sacred halls. The fact is that there are some priorities that require money and where it is wise to spend money. This happens to be one that I would say is, perhaps, the top priority in the Nation, the education of all children, the education, particularly, of children with a handicap.

If this is not a goal that is proper to address, to see that the funds are adequate, then I think that there is something definitely wrong with our society. I can think of many, many areas where I would be willing to take funds, and transfer them to this, so that in the longrun our society certainly would be very much better.

We want education to have impact on a lot of our problems—social and domestic. I am thinking now of the problem of the crime and delinquency, and other related problems, not to mention the quality of life of the individual. There cannot be a higher priority. It is not necessarily that we have to have more funds, it is just that we have to have them placed in a more appropriate fashion to fund programs that have what should be a very high priority.

Mrs. REIBMAN. Needless to say that I agree with you completely. I think that we pay the price one way or another. When we consider that perhaps the most we spend on pupil expenditure is \$2,000—I guess that is about average around the country—we spend about \$19,000 to \$25,000 for a youngster in a juvenile detention home. Then the damage has already been done. Perhaps we have lost a human being who can never be rehabilitated completely. But if proper attention, in many cases, would have been given at a very early age to remove some of the psychological and environmental barriers that hinder that child's development and education. I think that it would be a lot less expensive.

Mr. STACK. That, obviously, is the most effective crime prevention program, and the costs of crime and delinquency in this country are staggering, not to mention, as you have already pointed out, the impact on human lives, the quality of life of those who become involved, with their families and others, the victims of crime. Shall we say.

Again, we are very indebted to you for a very nice statement, and we thank you.

Mrs. REIBMAN. Thank you very much. I also appreciate your concern.

Mr. STACK. Thank you.

Now we will have a panel of Mr. Joseph Cronin, who is the superintendent of public instruction, Illinois Department of Education, appearing on behalf of the Council of Chief State School Officers; and Mr. Leonard Hall, assistant commissioner of education for special education for the State of Missouri, and president-elect of the National Association of State Directors of Special Education.

We welcome you, gentlemen. Mr. Cronin, your name appears first, so if you would like to go first.

[Prepared statement of Dr. Joseph Cronin follows:]

**STATEMENT OF DR. JOSEPH CRONIN, MEMBER, COUNCIL OF CHIEF STATE SCHOOL OFFICERS, AND STATE SUPERINTENDENT OF EDUCATION, STATE OF ILLINOIS, ON BEHALF OF THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND THE NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, REGARDING IMPLEMENTATION OF PUBLIC LAW 94-142, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT**

Mr. Chairman, Members of the Subcommittee: I am Joseph Cronin, Superintendent of Education for the State of Illinois. I am testifying today on behalf of the Council of Chief State School Officers (CCSSO), an independent organization of the commissioners and superintendents of education in the fifty states and six extra-state jurisdictions. Accompanying me is Dr. Leonard Hall, Assistant Commissioner of the Missouri Department of Elementary and Secondary Education, who is President-elect and Chairman of the Legislative Committee of the National Association of State Directors of Special Education (NASDSE). Each chief state school officer is responsible for the administration of education programs serving the needs of all children and youth in his or her state. Members of NASDSE are charged, within each state education agency, with specific responsibility for children who require special education and related services, that is, the children Public Law 94-142 was designed to serve. The Council is pleased that NASDSE is joining with us in presenting these comments. Our joint testimony reflects the concerns of those state education officials who have both overall and specific responsibility for delivering educational services to handicapped children and youth. Our statement also reflects our belief that special education is an integral part of our commitment to educate all of our nation's children and youth.

The issues discussed in our testimony are drawn in part from the results of a recent survey of state directors of special education. A review of the responses simply reaffirms belief in the positive aspects of Public Law 94-142. These include: one, commitment to meeting the educational needs of handicapped children; two, the success of the individualized educational program (IEP) as an educational tool; and three, increased parent participation in decisions affecting their children. In addition, the survey helped some areas of genuine and shared concern about the implementation of the law in states. These include: one, insufficient state level coordination of services delivered by other agencies; two, inadequate personnel development; three, the incompleteness of the definitions of "educational services" and "related services"; and four, the costs of underwriting the program. We raise these issues during the oversight process not to solicit amendments to the law, but to make you aware of the successes we have achieved and the problems which remain. Your awareness of these issues, and your support of our efforts toward policy clarification and interagency cooperation and coordination will help enable us to still further improve services to handicapped children, and to achieve the goals that educators and the Congress share.

As a matter of fact, CCSSO and NASDSE have agreed to provide staff of this committee with responses to 15 specific questions regarding the implementation of the provisions of 94-142. The responses to these questions will be provided as supplement to this testimony within the next four weeks. In addition, the staffs of CCSSO and NASDSE will continue to assist the Committee staff in exploring specific questions and issues which arise regarding the experiences of our members in dealing with the law.

The passage of Public Law 94-142 by the Congress in 1975 was an historical act which expressed a national commitment to assure every handicapped child access to a free and appropriate special education program and meaningful learning opportunities. We are now at a time when response to that commitment can begin to be identified and measured.

The commitment of our schools to serving handicapped children is increasing: more handicapped children and youth are enrolled in special education programs than ever before. The total Bureau of Education for the Handicapped (BEH) child count figures have risen from 3.4 million students in 1976 to 3.7 million students being served in 1978. This figure is conservative, however, and not a true reflection of the number of children being served. NASDSE recently completed a specially conducted a child counting survey involving a sample of 295 school districts in six midwestern states. The survey included a May 1 count of children being served and a cumulative count of children served throughout the year.

The data collected in the survey showed a 1.76 percent increase over the December 1 count mandated in the law. The cumulative count for the 6-state sample, on the other hand, showed an increase of 12.38 percent over the December 1 figures. Thus, many more children are served during the year than the one-time official count indicates. This same point is also reflected in the BEH's Semiannual Update of Public Law 94-142. The report refers to the NASRSE child count and states:

"(T)he actual number of handicapped children being served is at least 10 percent higher and may be as much as 25 percent higher than the number reported on December 1, 1978, child count because schools have continued to identify and serve handicapped children since that date. If this pattern holds across all states and territories, a conservative estimate would yield over 4 million handicapped children actually being served."

Attached is a copy of the NASDSE report for your information.

A major success of Public Law 94-142 is the use of the Individualized Educational Program (IEP) for children receiving special education services. The Congress, in including the concept of individualized education as a requirement of the law, has assured quality as well as access, and has sparked a revolution in public education. The consensus of the respondents to our survey is that the IEP is the single most positive component of the law. The value of the IEP is obvious: it can cut across organizational lines to allow all of those involved in serving the child to focus on that child's needs. Thus, despite the initial administrative burden of implementing this long-standing educational goal, the benefits of the effort are clearly visible and substantiated in the Nation's schools.

Under Public Law 94-142, parents are experiencing an increasing role as participants in decisions affecting the education of their children, and have available to them due process procedures to resolve questions and concerns. The adversary nature of due process procedures under Public Law 94-142 has been the focus of a great deal of publicity and misunderstanding. We do not regard the adversary nature of due process procedures as inherently antieducation. The problem arises when the participants in an adversary procedure allow suspicion and acrimony to get in the way of determining what is best for the child. Such confrontations seem to be the exception rather than the rule, however; parents and educators can and do work together. Parents are part of the process. The recently released case study of the implementation of Public Law 94-142 conducted by Education Turnkey Systems states, "Without question . . . the opportunities for parents, who wish to be more involved in special education, have increased significantly due largely to Public Law 94-142."

Mr. Chairman, public education has responded positively to the law. Administrators at both the state and local levels are working to make "compliance" with Public Law 94-142 a measure of quality, not a packet of forms. Teachers are teaching, children are learning, and parents are involved. Forty-nine of the fifty states are participating in Public Law 94-142, and compliance generally has been achieved. Despite these successes, several issues remain which must be resolved before maximum implementation of the law can be achieved.

First, the law requires state education agencies to supervise and coordinate among other state human service agencies the delivery of "related services" to handicapped children. Implementation of this requirement has been hindered by state governance structures, federal regulations which limit and complicate inter-agency action, and the wide range of services for which these other agencies are responsible. The problem is that many other agencies of federal and state government do not or cannot recognize that education agencies cannot have exclusive responsibility for certain children, simply because those children are receiving special education services. Of the 22 states responding to this question on our survey, 19 identified as important the need to review and amend the laws and regulations governing the other agencies with which public education must interact to assure compliance with the law.

Let me illustrate this problem with an example. For many years, special education and vocational rehabilitation programs have sponsored a joint work/study program. Historically, it has been an excellent example of interagency

1. Progress Toward a Free Appropriate Public Education: Semiannual Update of Public Law 94-142. The Education for All Handicapped Children Act. Division of Assistance to States, Bureau of Education for the Handicapped, U.S. Office of Education, DHEW, Annual, 1979, page 1.

2. "Case Study of the Implementation of Public Law 94-142." Education Turnkey Systems, p. 20.



cooperation. The total educational and treatment program for exceptional students was supplemented with vocational rehabilitation dollars which purchased psychological and counseling services, medical diagnostic services and treatment, physical and occupational therapy, prosthetics and transportation to student job sites. However, because of a change in federal auditing procedures, in many states vocational rehabilitation agencies have withdrawn from this program. Education agencies have had to assume the costs for these services, most often without commensurate budget increases. In Texas, where 10,800 handicapped students participate in work/study programs, over \$2 million of educational dollars are being spent to pay for job site travel alone.

A second and related issue concerns the requirement in the law that handicapped children have access to all related and supportive services which may be necessary to respond appropriately and adequately to individual needs. This expectation presumes that such services are well-defined. They are not. Twenty out of twenty-two states addressing this question indicated that clarification was needed in the relationship between educational and medical services. The survey also indicated that educational dollars are supporting the following services:

- Family counseling;
- Physical and occupational therapy;
- Medical diagnosis;
- Orientation mobility training; and
- Psychological services.

These services are being purchased from mental health centers, hospitals and rehabilitation centers, as well as from private sources. In the typical Midwestern state of Missouri, it is anticipated that in excess of \$300,000 will be spent this year on physical therapy and occupational therapy alone.

Purchase of these supportive services by educational agencies means fewer dollars are available for educational purposes. Therefore, the question must be asked, "Did Congress intend local school districts and state education agencies to be the agencies in our society responsible for the total case management of all handicapped children?" The provisions of the law which require "related services" have brought to local communities serious questions as to what are medical services, social services, and educational services.

A third issue which has been raised repeatedly concerns the staff development responsibilities at the preservice and inservice levels. The numbers of teachers who are adequately trained in special education fall short of the need. In its 1979 report to the Congress, the BEH predicted that 85,000 new special education teachers will be needed in the next two years. Institutions of higher education will only produce 20,000 special education teachers in 1979-80. Over 20,000 teachers will be required to serve emotionally disturbed children alone. Efforts are being made, however. In 1976, 21,500 special, regular, and support personnel participated in inservice programs in special education operated by states at a cost of \$12 million. With only \$25 million in 1979, 79,000 personnel participated in such programs. The need is still not being met. Educators at all levels want to improve their skills in working with exceptional children, but we must find a better way to coordinate and fund staff development programs in special education.

The last issue which must be addressed, although you have heard it before, is the lack of adequate funding for Public Law 94-142 programs. We realize that the House Education and Labor Committee does not appropriate funds. As members of the committee which authorized and supported this law, however, we know that you share our commitment to providing quality educational services to handicapped children. We urge you, as Members of the Congress, to advocate adequate funding for this program in the future. There is no question that programs authorized under Public Law 94-142 are underfunded. Local and state governments have contributed substantially to financing these programs, but federal support while considerable, is still not adequate. An August, 1979 paper issued by the Department of Health, Education, and Welfare reported that from 1974-75 to 1978-79, the average annual increase in state funding for special education among all states was 14.3 percent. Federal dollars as a percentage of total state and federal special education funds averaged 4.6 percent in 1975-76, 6.2 percent in 1977-78 and 4.9 percent in 1978-79.

\* Technical paper #6, "State Financing of Special Education," Aug. 30, 1979. Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education and Welfare.



In summary, the impact of Public Law 94-142 on this nation's public education system is unprecedented. The expectations set forth in the law can be achieved. Critical issues remain which will require our collective energy and attention. If these issues are resolved, and if the financial commitments are met, full implementation can be achieved.

Thank you for this opportunity to express our views and share our concerns. We stand ready to assist you in every way to achieve our common goals.

NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INC.  
Washington, D.C., October 12, 1979.

DR. WILLIAM PIERCE.

Executive Director, Council of Chief State School Officers, 400 North Capitol Street, Washington, D.C.

DEAR DR. PIERCE: Enclosed is a report of NASDSE's special child count project conducted May-June, 1979 in Region V for the Bureau of Education for the Handicapped.

The project involved 295 LEAs in the six states of Region V (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin)—representing approximately 10 percent of the districts in each state and the Region. The report shows data for a specially conducted May 1, 1979 child count and a cumulative child count of children served during the year up to May 1 and compares those figures with child count figures of December 1, 1978 which were reported by those districts to each State for purposes of receiving P.L. 94-142.

Data is reported in aggregate for the Region as well as for each state.

In summary, the aggregate May 1 count for Region V showed a 1.76 percent increase over the December 1 count. However, the variations within states ranged from a decrease of 8.39 percent (Indiana) to an increase of 10.08 percent (Wisconsin). The aggregate cumulative count for the Region showed an increase of 12.36 percent, with variations within states of 8-22.9 percent.

I want to acknowledge each of the state education agency coordinators for their efficient management and cooperation in this extensive effort to collect data for NASDSE.

Sincerely,

WILLIAM V. SCHIFFER  
Associate Director.

COMPARISON OF ALTERNATIVE COUNTS OF CHILDREN SERVED UNDER PUBLIC LAW 94-142, BY AGE GROUP FOR A SAMPLE OF DISTRICTS IN REGION V

[Summary data for 6 States]

Age group	For all handicapping conditions							
	Child count			Difference		Percent change		
	Dec. 1	May 1	May 1 cumulative	May to December	Cumulative December	May to December	Cumulative December	
3 to 5.....	5,341	6,977	.....	-364	118	-6.82	4.17	
6 to 17.....	63,762	64,868	.....	1,106	6,490	1.73	16.20	
18 to 21.....	1,792	2,344	.....	552	663	30.80	59.46	
3 to 21.....	81,825	83,295	93,362	1,470	11,464	1.76	12.36	
INDIANA								
3 to 5.....	589	455	518	-134	-71	-22.75	-12.05	
6 to 17.....	12,901	12,503	13,974	-398	1,073	-3.09	9.32	
18 to 21.....	184	253	315	69	131	37.50	71.20	
3 to 21.....	13,674	13,211	14,807	-463	1,133	-3.39	8.29	
ILLINOIS								
3 to 5.....	2,515	2,389	.....	-126	.....	-5.01	.....	
6 to 17.....	23,688	23,835	.....	147	.....	0.62	.....	
18 to 21.....	677	729	.....	52	.....	7.68	.....	
3 to 21.....	26,880	26,953	29,378	73	2,425	0.27	8.90	
MICHIGAN								
3 to 5.....	1,373	1,270	1,478	-103	105	-7.50	7.65	
6 to 17.....	11,935	12,272	14,263	337	2,328	2.82	19.51	
18 to 21.....	348	551	537	203	189	58.33	54.31	
3 to 21.....	13,656	14,093	16,278	437	2,622	3.20	19.20	

See footnotes at end of table.

COMPARISON OF ALTERNATIVE COUNTS OF CHILDREN SERVED UNDER PUBLIC LAW 94-142, BY AGE GROUP FOR A SAMPLE<sup>1</sup> OF DISTRICTS IN REGION 5—Con.

(Summary data for 6 States)

Age group	For all handicapping conditions						
	Child count			Difference		Percent change	
	Dec. 1	May 1	May 1 cumulative	May to December	Cumulative December	May to December	Cumulative December
<b>MINNESOTA<sup>2</sup></b>							
3 to 21.....	10,930	11,106	12,698	176	1,768	2.0	14.0
<b>OHIO<sup>3</sup></b>							
3 to 5.....	163	140	160	-29	-9	-17.16	-5.33
6 to 17.....	8,683	8,955	10,436	272	1,753	3.13	20.19
18 to 21.....	214	450	550	236	336	710.28	157.01
3 to 21.....	9,066	9,545	11,146	479	2,080	5.28	22.94
<b>WISCONSIN<sup>4</sup></b>							
3 to 5.....	695	723	788	28	93	4.03	13.38
6 to 17.....	6,555	7,303	7,891	748	1,336	11.41	20.38
18 to 21.....	369	361	376	-8	7	-2.17	1.90
3 to 21.....	7,619	8,387	9,055	768	1,436	10.08	18.85

<sup>1</sup> Stratified sample of 295 districts representing approximately 10 percent of LEA's in region 5 and approximately 10 percent of children served.<sup>2</sup> Stratified sample of 43 districts (10 percent of LEA's in the State) and approximately 10 percent of children served.<sup>3</sup> Stratified sample of 115 districts in Illinois (11 percent of LEA's in the State) and approximately 10 percent of children served.<sup>4</sup> Cumulative projections are based on 51 districts of 115 districts involved in project.<sup>5</sup> Stratified sample of 36 districts (10 percent of LEA's in the State) and approximately 10 percent of children served.<sup>6</sup> Stratified sample of 48 districts (11 percent of LEA's in the State) and approximately 10 percent of children served.<sup>7</sup> Stratified sample of 12 districts (2 percent of LEA's in the State) and approximately 5.1 percent of children served.

**STATEMENT OF JOSEPH CRONIN, SUPERINTENDENT OF PUBLIC INSTRUCTION, ILLINOIS DEPARTMENT OF EDUCATION, APPEARING ON BEHALF OF COUNCIL OF CHIEF STATE SCHOOL OFFICERS, ACCOMPANIED BY LEONARD HALL, PRESIDENT-ELECT, NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION**

Mr. CRONIN. We are kind of a tagteam today, Congressman.

Mr. STACK. No jousting for position?

Mr. CRONIN. No; none whatsoever. In each State, the director of special education works for the State superintendent, or State commissioner of education, so we have no problem with our relationships. What we present is a kind of united front of State superintendents and State directors of special education who frequently, as in the case of Dr. Hall, serve as an assistant State commissioner, or an assistant State superintendent.

We thought that in the interest of conserving the time of the committee, we would join our testimony, and have done so. But I will ask Dr. Hall to assist me in fielding some of the questions later on.

We, really, are act 2 of a three-part series. You will hear from Dr. Frazier from the Colorado State Department of Education, and get still a third State perspective in a few moments, and really that is what you will get. It is not really a classroom teacher perspective, but rather an interim evaluation of what the impact of 94-142 has been on the States in the first 2 or 3 years of implementation, where it hurts, what problems remain unsolved, what changes in administration, or regulation, or further acts on the part of the Congress or the executive branch do we need.

We are in the process of compiling a survey of State directors of special education, and we will respond to a list of 15 questions that the staff has given to us. We will do that within 2 weeks, as a supplement to our testimony today.

We want to identify three or four very positive accomplishments of 94-142. One is the declaration of a strong Federal commitment to meeting the educational needs of handicapped children. In most of the States there already was that stated commitment on the part of State legislatures, as the Senator from Pennsylvania has indicated, and on the part of State superintendents, Governors, and other State officials.

A second step forward, we think, has been the individualized education program. In fact, in looking at the 1980's, we think that the IEP may become so popular that the parents of gifted children will say, "If it is good for the handicapped, why isn't it good for our students as well."

We have in Illinois a \$1 million law suit against the local school district in the State because we have not provided adequately for the special needs of exceptional children at the other end of the spectrum, the extraordinarily talented, IQ's of 150, 170, well up in the congressional category. [Laughter.]

Mr. STACK. Mr. Beard made the point that we are handicapped. [Laughter.]

Mr. CROXTON. Exceptional handles both. [Laughter.]

Mr. CROXTON. Then people will say, "If IEP is so good for the handicapped and the gifted, why not for the regular children. Individualization is something that you educators have been talking about for 50 years, and isn't the IEP a good device?"

We think that it is popular. It is catching on. On the whole, despite some problems of consuming time, staff, and energy, it is working.

A third plus is increased parent participation in decisions affecting their children. I also want to point out that classroom teachers have done an extraordinarily fine job in implementing the law, in dealing with the mainstreaming, or least restrictive alternative, and we take this opportunity to salute them.

The four problem areas are the State-level coordination of services delivered by other agencies. There is in the law a requirement that we supervise and exercise some quality control over what public health, mental health, and other agencies do in terms of handicapped children and their education. That is a very difficult frontier.

A second on which I will go into more detail is the shortages of personnel, the shortages of key special education teachers and specialists.

Third, some problem in defining related services. You have heard some testimony on that already. I will give a few more examples.

Fourth, the cost of underwriting the education of all handicapped children.

We raise these not necessarily to solicit amendments to the law, but to show both the successful record and the problems which remain.

In terms of how many handicapped children are being served, we have some problems with the total child count. The Bureau of Education of the Handicapped identifies an increase from 2.4 million stu-

dents in 1976 to 3.7 million students in 1978. That was an increase of about 300,000 students nationally in a 2-year time period.

I want to point out that that base figure is impressive in itself. Even before the law took effect, the States were doing a good to excellent job on educating 3.4 million children. Let me give you the Illinois statistics to give you a State look.

We were already serving 200,000 handicapped children. That number has gone up to 220,000. So, that 10-percent difference is what 94-142 can take some credit for. It is not clear exactly how much of that we would have done anyway, but probably some.

However, one of the problems is the time of year that the count is taken, and what is included in the count, and what is not. If you take a snapshot on December 1, and identify that there are 3.7 million children, you miss the fact that on December 5, or January 5, or even on May 5, additional children may be added to the rolls.

Also, if you say, "Don't count those children in State mental institutions, or in a State children's hospital who may be getting some handicapped services under some other law," you are under count and underestimate how many children are being serviced.

Also, with a number of programs like speech therapy, and speech correction, where a given child may only need 3 months or 6 months to correct a lisp, or some other speech handicap. Therefore, that number of children served will not be in the tally.

So we recommend to the Congress and to the Bureau of Education of the Handicapped very strongly that we move instead from a snapshot census figure to a cumulative count. How many children have been served during the entire year. You will get a much better picture of how many children have, in fact, been served under this particular program.

We have given you some information on those States in region V, the Midwest, which shows the difference between the one-time count, and the so-called cumulative count.

I mentioned some positive comments about the IEP. On the whole, those of us at the State level are pleased with this development. It does allow us to individualize education, and identify those services which each child uniquely needs.

Some people have complained about the due process procedures, the fact that parents now have the right to appeal a local placement decision to the State level, and there are several levels of appeal. These do bring into play an adversary proceeding, which on occasion pits the parents against local school officials, and sometimes against State education officials as well.

We don't think necessarily that the adversary process is bad. As a matter of fact, when one considers the alternative, which is to have all these cases go to a court of law, frankly we prefer the hearing officer provisions that we are now working on under Public Law 94-142.

We cite a recent study by Educational Turnkey Systems, which says that without question, the opportunities for parents who wish to be more involved in special education have increased significantly due largely to Public Law 94-142.

It is very clear to me, having served in two States, Massachusetts and in Illinois, before, during, and after the passage of the law that

where we once said to parents: "We know best. We are specialists. We, educators, know what the placement should be; and we will tell you what that placement should be." But now we have, by these laws, been forced to realize that the parents have a major say in determining the correct educational placement for their own children. They, in fact, have more responsibility than we provided before. That is a positive development.

In terms of how States have responded, I think that it is eloquent testimony in itself that 49 of the 50 States are participating in Public Law 94-142, are accepting and pursuing Federal grants, and generally compliance has been achieved. Despite that, we want to point out several very significant problems.

One is the requirement that we supervise and coordinate other human service agencies, especially in the twilight zone of related services. As the Senator indicated, this is a vague clause. Regulations define it to an extent. We had some very important discussions and debates about excluding medical services, but including certain diagnostic services, including medical diagnostics. But some of these turf problems remain. So far those States responding to our survey, 19 out of 22 indicate this as a very serious need, where we must review the laws and regulations governing the other agencies.

Let me give you two examples. One is in the testimony. That is the role of State vocational rehabilitation agencies. For many years, we have enjoyed an excellent working partnership, especially in providing programs for teenagers, work study and rehabilitation programs. The vocational rehabilitation agencies have put up money for psychological services, medical treatment, if necessary, physical and occupational therapy, prosthetics, transportation to job sites for the work study programs. However, with the passage of Public Law 94-142, and because of various Federal audits, national policy has been to persuade State vocational rehabilitation directors to pull their money out of these services, and go to other age groups, or go to other priority services.

In Texas, 10,000 students participated in these work study programs. Now, that the States are having to pick up the money under 94-142, and it is costing \$2 million a year for job site travel alone.

In the past the Congress always asked us, when new Federal programs came in, to use the dollars to supplement but not supplant or replace the State dollars, or the local dollars. But here is a clear example of where Federal policy has said: "All right, education will now get additional through this act, but other Federal dollars can now be removed." This, we think, is not congruent with the stipulations laid on State and local education agencies.

A second example is in the area of mental health, where most States are busily deinstitutionalizing and closing down the huge snakepit warehouses for retarded citizens and handicapped persons. This is all social policy. The problem is, as these students are returned to the community, the need for their education has to be picked up by local school districts and by State education agencies.

We are not getting mental health dollars from the Federal Government, or from the State government, to follow these children back to the community. Those related services formerly picked up by other



State and Federal programs are now being laid on the back of education. This waters down the impact of 94-142, and forces us to spread these dollars on the new placements, some of them day programs, some of them residential, and some of them in State, and some of them out of State.

It is a serious problem, the relationship between various social service providers, the most expensive of which is in the area of medical services, where we find, in a number of States, that educational dollars are supporting family counseling, physical and occupational therapy, medical diagnosis, psychological services, orientation, and mobility training.

Dr. Hall provides the statistic that in Missouri alone we will spend \$300,000 this year on physical therapy and occupational therapy.

We raise this question for the Congress: Did you intend that local school districts and State education agencies become responsible for the total case management and for the dollar subsidy of all handicapped children services?

We don't think you did. At least, that was not in the record 4, 5, 6 years ago, as Senate bill 6 was being debated by the Congress, but people are now in fact claiming that we are obligated to do so, and they are litigating.

In the State of Illinois, at least one or two special education directors every month turn me in to the Bureau of Education of the Handicapped for failure to provide for the full cost treatment for emotionally disturbed adolescents who require a \$20,000, \$30,000, or \$40,000 a year placement in facilities are complex and as wonderful as the Menninger Clinic, which is both a medical and educational institution. They want the State and Federal dollars to pay almost the entire bill. The question is, was that the intent of Congress?

Is that the way that 94-142 should be implemented, or should there be some additional amendments, perhaps, to mental health legislation, or other legislation, indicating that other Federal programs must be used to provide these necessary services.

A third area is the shortage of staff, not only in special education teachers, where the Bureau of Education of the Handicapped in its 1979 report to Congress says that we will need 85,000 new special education teachers, and we have serious shortages in areas like teachers of the deaf, the blind, the emotionally disturbed, the teachers of multiply-handicapped, teachers who can speak several languages, especially Spanish; but school social workers, psychologists, other workers are needed as well.

Can we be expected to meet all the deadlines if we don't have the personnel trained? That is a profound question for all of us at the Federal and State level to work out.

One of our complaints, as the Bureau of Education of the Handicapped is trying to help the various colleges and universities expand their programs, but they do so usually independently, and in isolation from the work that we have done out of State Educational Agencies.

For example, I chair the teacher certification board in the State of Illinois, and I prepare each year a very elaborate report on the supply and demand of Illinois teachers. We, at the State level, know where our shortages are. We work with placement directors at the colleges and

universities. The Bureau of Education of the Handicapped should consult with us before they make the grants. In your vocational education laws that must be done, but not so in special education.

I will leave with the staff a copy of our Illinois Supply and Demand Report, so you can see the shortages and the kind of detail that we have available at the State level. We urge you to direct the Bureau to work more closely with State superintendents and State commissioners.

The last issue already addressed by the previous speaker is the lack of adequate funding. The statistics for Illinois are very, very similar to Pennsylvania, since we are of a similar size. We received \$46 million this year, and we were supposed to receive at authorization levels \$112 million. So that is the area of gap.

I will take that up with my Congressman, Paul Simon, who is on the Budget Committee, and try to pursue it that way. We realize that your authority as a committee is limited, but all have a chance to vote for amendments on the floor, and we would urge you to do so.

Expectations have been raised by 94-142, and the fact that dollars are hovering between 30 and 40 percent is a source of disillusionment both in terms of parent response, and those of us who must administer and implement State plans for the handicapped.

The truth is that in States like Illinois, the local share is \$300 million, the State share is \$200 million, and the Federal share is \$46 million, or about 10 percent, at best. Yet, the Federal Government would like to call the tune, and write stringent regulations, and bring the State to task for not doing some of the things in the Federal law. Yet, we have been making the efforts at the State and local levels for some years.

I will also give you a paper with my individual views as a State superintendent for Illinois, where I also identify the summer school issue as a problem, and also some issues having to do with services to students who may be attending nonpublic schools.

In States like Illinois and New York, almost 20 percent of the students attend private and parochial schools. There are questions that arise from time to time as to where those students should be served. But those would be in the paper that I will leave with the staff.

Thank you, Both Dr. Hall and myself will be pleased to answer questions.

Mr. STACK. Thank you.

Mr. Beard?

Mr. BEARD. Thank you, Mr. Chairman.

You mentioned in your testimony some youngsters that are in institutions, and that there is an emphasis in this country to, hopefully, take them out of these institutions and put them back in the community.

In that case, in your own State, who provides the education of the youngsters in institutions?

Mr. CROXIN. You can find it in about five or six budgets. If the people are poor, they would be served by a public welfare agency, the Illinois Department of Public Aid.

If their family has severe problems, such as broken home or both parents died, it might be the department of children and family services that provides for the placement.

If the child has a physical disorder, or a handicap, it might be the department of public health.

If the person is psychologically disturbed, it might be the department of mental health.

If it is a child who at age 15 was in an accident, and was crippled as a result, it would be the department of vocational rehabilitation.

I have mentioned the five or six major agencies that we must deal with in terms of placement and education decisions.

Mr. BEARD. These particular agencies are the ones that are responsible, with respect to the situation, for the education of that person?

Mr. CRONIN. The law now says that the State education agency has got to assume responsibility for providing a free and appropriate education. Some of these agencies are placing children in homes, or in institutions where there is strictly custodial care. We have had to go in, and say: "No, you must now put in an educational program." They are saying: "Fine, you pay for it. It is not in our budget. The law says that you have to provide for education." That is the area of conflict, where our responsibilities begin and end; and where theirs begin and end.

They say that they do not have the requirement in any Federal law or any State law to provide some of these services. But many of them have:

Mr. BEARD. Doesn't your department have the obligation to guarantee an education to every child in Illinois?

Mr. CRONIN. Every child in Illinois, absolutely.

Mr. BEARD. In this case, you are not providing them with an education. They are under another agency, and you wash your hands of that particular responsibility.

Mr. CRONIN. We don't have that choice. We now have had to work with each of those agencies, and develop what programs require funds. We have expanded into those agencies which did not have educational programs, so that now we are down to the last few hundred students.

In our child count, we could only find about 1,000 students who are unserved in the State of Illinois, out of 2.4 million children. Those were a very tiny proportion, and we have used our dollars to move on that program, and provide those services.

Mr. HALL. May I expand on that, just for edification?

The State board of education in the school district may not always be the deliverer of the service. But the bottom line for assuring access to the service rests with our offices. Through agreements and filing of assurances, we monitor those programs as we would school districts.

Mr. BEARD. The reason that I raise the question is because in your testimony the impression was that once the child was released from an institution back into the community, he becomes your burden. It seems to me that he was your burden in the first place, if you have the obligation to provide an education to every child.

Mr. HALL. I can give you a specific example of how the burden is transferred.

We presume, when a child is placed in an institution, he or she belongs there. Unfortunately, that is not always a valid assumption, and we have the obligation to see to it that the education component of the treatment program is in place, and is individualized for the youngster's needs within that environment.

When that youngster is removed from that environment, he or she may or may not be put in an area of the State, in a community where services are readily available. Then you scramble. You try to find all of the educational and related services to meet that youngster's needs, having had no input into where the placement could be made in the State where they are most readily available.

While you are trying to implement services, people are hanging over you saying: "You must comply with the law." Our response is, "You will help us implement the law. We both will comply." If the services are not available, we would appreciate your helping us find them, rather than remind us that we have an obligation to come up with them.

That is the dilemma that Mr. Cronin alluded to in his testimony.

Mr. BEARD. Thank you.

Mr. STACK. Where would you have input?

Mr. CRONIN. We find ourselves frequently surprised. A judge will make a determination of where a child should go, let us say that several branches of the family are competing for that child, and he will make a decision. Suddenly, on short notice, the local school system is supposed to come up with an appropriate placement, maybe with a 2 or 3 days' notice.

A child welfare agency will make a determination of what facility, and it may be a private facility. Several agencies have funds to buy spaces in private homes, or group homes. Again, the local school system will find itself with 1 or 2, or in some cases 10 or 15 children to educate.

We have had one community that Congressman Simon represents, Carbondale, Ill., in the southern portion of the State where a private provider went in, bought a facility, and at the beginning of school told the local school officials, "We have got 50 severely handicapped children, and we would like you to provide the educational services under 94-142," with no notice.

So, agencies, judges, and in some cases private providers, can come in and ask for these services on short notice.

Mr. STACK. Do you have any further questions?

Mr. BEARD. No.

Mr. STACK. Mr. Erdahl?

Mr. ERDAHL. Thank you, Mr. Chairman.

With your indulgence, Dr. Cronin reminded me of a brief story of the fellow who came to the employment agency looking for a job, and employment agency person asked him what he could do. He said that he could tie his shoes, and wave bye, bye. He looked down the list, and he said: "We have an opening for you in the U.S. Congress." [Laughter.]

Mr. STACK. I don't think that it is funny. I don't think it is an appropriate story. [Laughter.]

Mr. ERDAHL. Just a couple of questions. You mentioned the students in the nonpublic school. Evidently, you have a paper that you have submitted to our staff on that. Very briefly, how do you handle that in Illinois, the exceptional child in the nonpublic school. I believe you mentioned that approximately 20 percent of your students are in nonpublic schools.

Mr. CRONIN. We handle it well in the cases of private schools which serve the most severely handicapped, because we already had a program of tuition reimbursement, where the State would assist the local schools in picking up a certain percentage of the cost of a private placement. So many of our school districts put in \$2,000 or \$3,000, the State would put in \$2,500, and then it was hoped that the parents could pick up the other, either through savings or through a medical insurance program of some kind, or charities.

That worked reasonably well. Now the interpretation is that we cannot put a lid on the State's payments, and the legislature has changed the law. So, we pay \$5,000 to \$10,000 for many of these private placements, and in several dozen cases \$20,000, \$30,000, and \$40,000 for extremely complicated private placements.

The area where we are having problems is in an area like working with learning disability students, or speech correction. Should we have the students from the nonpublic schools come over to the public schools, and if so, do we have to pay for the transportation back and forth? The class may only be needed for 30 minutes, or 1 hour a day. The therapy may be of short duration. Or, would it make sense for us to have the workers go from the public school system over to the nonpublic school?

States vary quite a bit, and in Missouri there was a State constitutional provision banning any kind of aid or services. It is the strictest constitutional provision in the country. So they cannot do it. There must be some kind of bypass or other way of doing it, because the State cannot do it.

In Illinois, our constitution is not as stringent. Even so, we are still struggling through this issue, and the regulations do not give us much guidance. This is perhaps an area where BHE could publicize several models, or write more detail into the regulations which would protect us from litigation in the area of a separation of church and State. We do need some help in this area.

Mr. ERDAHL. Another question, Mr. Chairman.

You mentioned that you are associated with the National Association of State Directors of Special Education, you and your colleague from Missouri, and the Senator from Pennsylvania. Are your States typical, or are you doing a better job than the others?

Do you know what the experience is in other States so that you could generalize what is going on in the country?

Mr. CRONIN. Dr. Hall is the president of the State Directors of Special Education Organization.

Mr. ERDAHL. Then, let me direct that question to Dr. Hall.

Mr. HALL. I believe the issues that we have raised jointly for the committee are consensus issues across the Nation. I can tell you without reservation that consensus is that it has been found that the law is working. Handicapped children are going to school, they are learning. Their parents feel good about it. Not without problems, and you never told us that it was going to be easy, and we never thought that it would be.

We have serious concern, that of irresponsible backlash, because many people who are complaining about issues in the law do not have those issues grounded on evidence. We are concerned that to take the law now and open it up for amendment could undo the progress that has been made.



We think that with policy clarification, and I am speaking now for the States, with policy clarification from BEH, which are forthcoming—they have begun this—with getting the pipeline and the money into the pipeline, which has finally come about, we are going to realize the dreams of 94-142.

I don't know of a State director in the Nation, or really of a chief State school officer in the Nation that is not pleased with the opportunity that we have in 94-142, although we are going bald and a bit gray in trying to carry it out. The spirit is positive, and the law is working. I think that that reflects over here.

Mr. ERDAHL. We are very glad to get those comments. I think that the testimony that you have both presented has been helpful.

Another question because we hear about the need for adequate funding and appropriation. What are you going to do in Illinois, if you don't get the funds?

Mr. CRONIN. The local school boards are paranoid about the possibility that we will pass the expenses on to them. They are complaining vigorously and annually about mandates being laid on them by the Congress and by State legislatures, and by State boards of education, and State superintendents, mandates without money. It is becoming a cliché that you are throwing money at a problem.

They are saying: "You declare a problem. You legislate a solution, and then you don't give us the money." It is the flip side. "You are not giving us the money to carry out this very detailed and highly prescriptive social and educational solution to an enormous problem."

The other option is that State legislatures are having to put up their own dollars. For example, in the first 2 years of 94-142, yes, we got our State funds for 94-142. We had the children move from 10 million up to 36 million. The law has probably cost us \$40 million in State funds, yet this was not supposed to be a matching program. It was not supposed to be some kind of revenue sharing, in that respect. So we have had to dig into local and State coffers to try to find those dollars that have been missing from the Federal level.

Mr. HALL. The budget which I will take to our legislature next month for special education is over \$700 million. It was \$25 million 4 years ago. Of that \$100 million, the Federal funds are \$20.5 million.

We find that we are not able to participate in 94-142, we will continue to serve handicapped children, which is our State policy. We are grateful for the Federal funds to help meet the excess costs. We recognize that our responsibility for the youngster comes first, and we appreciate your partnership. We see no need to blackmail Congress on the money issue. Instead, we see the need to point out to you, as Dr. Cronin has, the critical issues where dollars can help improve services and the quality of life for youngsters. That is what we are pursuing with you.

Mr. ERDAHL. Thank you very much. I appreciate that spirit.

Thank you, Mr. Chairman.

Mr. CRONIN. I do have a quick comment, Congressman, about how well the States are doing. The Bureau has prepared a list of the percentage of handicapped children in each State, how many children out of the total population have been identified and are being served. I think you find that in some States in the vicinity of 10 or 11 percent are being served, and in other States 6 to 8 percent, and there are few

States where they have been serving from 3 to 6 percent. So you do get a profile that goes from high service to medium service, to low service States.

I mention that because that shows you how important it is to make sure that if we are going to play that kind of game, and talk about States that apparently are not doing the job as represented by their count, we had better shift to a cumulative count.

It could well be that 2 or 3 years of therapy or service is all that some students need. The notion that 12 percent of the children in every State are handicapped is an arbitrary rule of thumb, where the Bureau worked with the Council on Exceptional Children, and other expert groups, and said: "How many children are out there?" This, of course, made the Congress outraged to find out that only 4, 6, and 8 percent of the children are served, but 12 percent of the children had needs.

It shows you how important it is, if we are going to use a statistical yardstick to have that cumulative count, and also to do some basic research on, are there as many children in the Rocky Mountain States, for example, as there could be in a metropolitan area like the Chicago or New York City metropolitan area. Are there some children being served in private agencies, or in other public budgets which would not show up in our count of educational handicapped programs?

It is a very, very sensitive area. I speak to State superintendents, and we do not want to be compared according to some mythical yardstick of absolutely 12 percent. The proof is that nowadays with highly educated people, any parent whose child is not in the top half feels that there ought to be some special program. So eventually the way that would go, 49 percent of the people will say: "We demand some kind of specialized program because our children are not performing average or above, and that is our ambition." So this business of where the cutoff points are is extremely sensitive.

Mr. HALL. Our child count in Missouri increased from 80,000 to 90,000 children because of Public Law 94-142. But we serve directly over 4,000 children in programs operated by the State board of education, who are not on our count because they receive funds from title I and other programs, but they are beneficiaries of the law. Those data are important data.

Mr. ERDAHL. Thank you, Mr. Chairman.

Mr. STACK. May I ask this question, Dr. Cronin? As initially passed Public Law 94-142 did use two dates, and then because of complaints of financial burden we changed from the two dates to a single date. How do you see that working?

Mr. CRONIN. I will give a short answer, Congressman, and then I will ask Dr. Hall to add to it.

First of all, you do it at the end of the year. You do it on May 1 rather than December 1. Second, you ask a local school district to identify all those children who have been served during the year, not those children who are enrolled in a special education program at that moment. That allows you to say, yes, we did have so many students in the fall semester who graduated out of a mild disability or a speech correction program.

Mr. HALL. How many IEP's have you written this year, and that is your count.

Mr. CRONIN. How many have graduated, how many may have moved to other States.

Mr. HALL. That kind of information the States have. They keep that kind of data for other purposes.

Mr. STACK. That seems very good.

Mr. Coleman?

Mr. COLEMAN. Thank you, Mr. Chairman.

I would like to welcome Mr. Hall from the State of Missouri, and thank him for the important leadership role he has played in this country. I would like to ask him a question based on that leadership.

We have heard a lot of testimony prior to today's hearing to the effect that the age limit for coverage under the act should be lowered to zero. What do you think the cost of establishing such coverage would be? And what do you think the impact of this change would be on existing Public Law 94-142 programs?

Mr. HALL. To do it correctly, I don't think that the Congress or the States are able to fund it. I don't think that the States have in place that interagency cooperation that is necessary to make it successful.

However, the attitude around the country is that early intervention is the key to success in special education. Congress has given us in the States an opportunity, if we choose to use it.

You have incentive money built into the appropriation, and you permit the States to go below age 5, if they wish to do so. If you mandated it, you would force States to be at odds with Congress, because State legislatures don't want to mandate services at the pre-school level in many States. If we are faced with a State versus a Federal mandate, we are going to resurrect the animosity that was present in 1975, when people looked at 94-142 as a mandate. But it is not, it is a grant and aid program that we have an opportunity to take part in.

My suggestion personally, if you will indulge me, is for you to continue to give us the incentive moners, the opportunity to let us grow, to let us find the sense of balance in early education, let us better define what the issues are that need to be addressed, and what agencies we can plug into. I think perhaps we may find that the mandate takes care of itself.

Mr. COLEMAN. How much experience will be necessary before you will have sufficient knowledge to responsibly go into different areas?

Mr. HALL. Of course, many of us are going into that. As 94-142 puts its priorities in order, which it has done, and requires that you serve all out-of-school children first, and then you serve the most severely handicapped second. As you get the children in school, and continue to look at the priority needs, you are going to be looking lower, and lower, and lower.

As the initiative of early intervention takes hold, which it has, we are finding handicapped youngsters at age 2 and 3, and we are telling the parents, "There is no mandate to serve your youngster until age 5," and the parents are saying to their school boards, "I want my youngster served," the schools are responding and saying, "All right, we will start an early program because we have the option, and the State is putting pressure on us."

So, really, I don't think that it is a matter of waiting for the future. I think that it is a matter of taking a look at where we are now. Our association, from the national perspective, is right now anticipating the future, surveying the States on what they are doing in early intervention, how many States have laws that prohibit it. I think as we look at that data, you will find that one of the spinoffs of 94-142 has been making some inroads in programs for the young learner.

We, in Missouri, are serving 152 deaf-blind children in 7 school districts, and we serve them from birth to 21, and the parents are excited, and the kids are learning. Public Law 94-142 made it possible.

Mr. CRONIN. Before you mandate zero to 3, pay for 3 to 21, which is what the requirements are now, and where we have reported a short-fall of dollars.

Also, the Congress should be careful to work out with great care the relationship with Head Start, with the day care programs, with other infant programs funded out of other social rehabilitation services dollars from the Federal Government and the States.

Also, some of these early childhood intervention programs, again, require medical intervention, or mental health services. So we have to very carefully legislate, and regulate who pays for what services in the first 3 years of life.

I think all educators believe that early intervention makes sense, especially in those areas where something that you do in those first 3 years can make a difference. But, let us remember that many handicaps are not discovered until adolescence. Some of the emotional problems do not really come out until age 13 to 14. Other crippling diseases may take place anywhere from 3 to 21, and we still have some unmet needs in that category.

I agree that there are some very good pilot programs and some models being developed by the Bureau right now in cooperation with the States, and this is positive. We may need 2 or 3 more years of testing out these models.

Also, the Congress must give us the leadtime in terms of preparing those teachers who must work zero to 3. Don't mandate it, and then say, "Yes. Now go out and find the teachers." They may not be there.

Mr. COLEMAN. Is there an effort nationwide to induce individuals to go into this profession? If so, are there limitations on costs?

Mr. HALL. Personnel is a critical need. Colleges and universities are counseling prospective teachers to go into special education, or to at least receive a credential because with the decline in the birth rate across the Nation, with the increase in mandates for the handicapped, it is the logical mix.

The colleges are not able to gear up to the needs that are out there. I am not going to say that they are not, because they are trying. They are just not yet able. You cannot reach a youngster without a teacher. We are trying to deal with that through various kinds of certification alternatives.

In addition to providing incentives for teachers in the field to go into inservice programs, we are developing various kinds of short-term certification programs, 1- and 2-year certificates for proven teachers to teach in a special education, just to enable the class to operate.

Then, of course, we receive criticism from people saying that we are sacrificing quality by doing that. This is an issue, so we are trying to implement services for a youngster that is here today, although the teacher is being trained for tomorrow.

As Dr. Cronin included in the comments which we prepared, the personnel problems of 94-142 are critical, not just with numbers, but with teachers that have the skills for vocational education. Do we have teachers at the secondary level, vocational education teachers that can teach children the skills that they are trying to teach, or do they just know how to teach a skill and hope that you can do osmosis and pick it up. We are dealing with that.

Mr. COLEMAN. What would be your opinion, gentlemen, of the right financial mix. You cited 4.6 to 6.2 percent of total funding in the last 3 or 4 years of Federal participation as being realistic politically as well as philosophically. What do you think the right mix of Federal funds in this program should be?

Mr. HALL. Let me offer a point of view. I am not going to give you a figure. I would say the mix of a percent of Federal funding for 94-142 as a part of the State funding. I think that a more accountable way would be to, as you pursue the authorization level of 40 percent, which perhaps is based upon some kind of logic, also pursue the dollars that you appropriate to other Government agencies that can mix.

Let's pursue the mix of Federal dollars that can go behind a youngster to improve his quality of life, and see to it that we don't have the youngster falling through the cracks because two agencies are protecting their appropriation. Let that be the mix rather than trying to come up with a hypothetical appropriate ratio, because the ratio means nothing if the services are not in place. That is the way I look at it.

Mr. CRONIN. I wrote an article a few years ago on the intervention of the Federal Government in education that said, if you want to determine 50 percent of the rules and regulations for a service at the local and State level, you ought to come up with 50 percent of the money.

Another way of looking at it is the National Education Association which has recommended that many educational programs have one-third local, one-third State, and one-third Federal.

It is interesting, at the State level we administer some programs like the school lunch program, where 90 percent of the dollars come from the Federal level, and we have others like this, where 5 to 10 percent comes from the Federal Government, and yet you have the very same prescriptive rules and regulations.

Mr. STACK. Commenting on Mr. Coleman's question, did I understand you to say that colleges and universities are not helping to train all the people that you would like to be trained in this field?

You mentioned inservice training. The local school systems are providing inservice training for regular classroom teachers to become special education teachers to meet this problem?

Mr. HALL. One of the strengths of the law, Mr. Congressman, is the manpower development requirement that the State departments of education supervise and develop a comprehensive system of personnel development at the State and local level. Every school district in this Nation must have a plan of inservice education, and manpower devel-



opment to meet their districts' needs with 94-142. They may use part of their money to do it.

The problems with that are myriad. Many schools are not really sure what their needs are. We have carried out I don't know how many hundred IEP workshops on how to write IEP's, how to know whether you are able to serve the handicapped youngster in a mainstream environment et cetera.

Now, we are looking at needs in the future, how does a teacher deal with parents, in communicating about the limitations or the potential of the handicapped youngster.

The system is in place, and I personally think that BEH is to be commended for some of the efforts that it is now putting in to try to coordinate its activities through that comprehensive system. As Dr. Cronin said, there have been some times when they have gone around the States. If we can keep on target there, I think that it is going to help supplement that which the universities and colleges are doing to put out new people, because the inservice need not be a short-term solution if it is done with quality.

Mr. CROXIN. I would say that we have had many universities regroup and try to expand dramatically the number of special education teachers and specialists. The question is, the mandate has come on faster than the pipeline supply of new teachers and specialists.

Second, we have been laying off teachers. Certainly in the Northeast and in the Midwest, we have been reducing the teaching force by 1,000 to 2,000 per year because of the drop in family size, and the declining enrollment. Many of those teachers, or many teachers who see that 2 or 3 years from now that their number is going to come up, and they are going to be fired, even though they are on tenure, many of those teachers are going back part-time and taking courses to qualify themselves as teachers of the handicapped. Those are two sources other than inservice training. Again, I applaud what is being done under the law.

Mr. HALL. The new teachers are coming out with more qualifications. It is ironic, but through 94-142 you have really helped us determine what special education means. Because of the definition, universities now can be more specific in the skills that they are trying to put in the hands of their teachers, because they know exactly what the teacher is trying to deal with because of the law. Before, there was a bit of altruistic motive in being a special education teacher, and now there are some very specific things that need to be addressed, and that is good.

Mr. COLEMAN. Thank you very much.

Mr. STACK. Mr. Kramer?

Mr. KRAMER. I appreciate your testimony very much. I think that the other questioners have very adequately clarified the important areas. Thank you for your commitment.

Mr. STACK. I would like to add my thanks. It has been very helpful to us. The committee thanks you.

The next panel is composed of Calvin M. Frazier, Commissioner of Education, Colorado Department of Education, who has with him Richard Avers, superintendent of school district No. 1, Colorado Springs, Colo.

We welcome you, gentlemen. If you would like to proceed, please.  
[Prepared statement of Calvin M. Frazier follows.]

STATEMENT OF CALVIN M. FRAZIER, COMMISSIONER OF EDUCATION, COLORADO  
DEPARTMENT OF EDUCATION

IMPLEMENTATION OF PUBLIC LAW 94-142, EDUCATION FOR ALL HANDICAPPED  
CHILDREN'S ACT OF 1975

*Introduction*

The 1970's will undoubtedly be looked at by future generations as the decade of the special child. Major legislation to serve the handicapped was passed in almost every state. The federal legislation, Public Law 94-142, had the advantage of the state-level activity. However, 94-142 went further than most states and posed some conflicting patterns on top of already established procedures and delivery systems. It was inevitable that discord would develop. Despite these difficulties, it must be recognized that the combined state and federal efforts have yielded a tremendous gain in serving the handicapped youth of our country.

For the most part, federal officials have been very sensitive to the advances made at the state level and the need to coordinate new federal level 94-142 provisions into existing programs. The staff of the Bureau of Education of the Handicapped, and its Director, Dr. Ed. Martin, in particular, have done an outstanding job of seeking such coordination. They have alleviated much of the potential state and local hostility toward 94-142.

One major side benefit should be noted. State and federal legislation relative to handicapped children has probably been a major force in improving general education. In developing individualized educational programs and sharpening our diagnostic efforts, all children have probably been helped. In addition, the appropriate integration of handicapped children with the nonhandicapped students has again been a tremendous learning experience for all parties involved.

The decade to come will be one of consolidating gains made, expanding early intervention efforts with the handicapped preschool child, developing greater opportunities for the handicapped young adult, and increasing our research relative to reducing the incidence of handicapped children. This statement represents a noting of gains and tasks to be undertaken, the examination of key public policy issues that could undermine the progress, and, lastly, some thoughts for priorities to be addressed in the 80's.

*Consolidating the Gains: Some Administrative Tasks for Local State-Federal Officials*

Central to the operation of 94-142 are such programs as Child Find, inter-agency agreements, and parent involvement. Aspects such as these have encountered some difficulty but, for the most part, have been highly effective. The required coordination between the Department of Education, institutions, social services, and vocational education and rehabilitation, and health will produce a significant return as early obstacles are resolved. Beyond some of the normal implementation problems in these areas, I would identify the following as topics that need special attention by all of us charged with implementing 94-142.

1. *Clarification of the intent of the least restrictive environment concept:* The law and the rules seem clear as to what is intended in respect to educating the handicapped child in the least restrictive environment. The individual is to be educated in an appropriate setting along the continuum that ranges from the regular classroom to full-time residential care. When appropriate, there should be integration of the handicapped child with the non-handicapped. Unfortunately, the term "mainstreaming" has conveyed the intent of the federal act as being one to move all handicapped students into regular interaction with nonhandicapped. This has raised a specter of ambulances carrying full-time, bedridden, severely handicapped students up to elementary and secondary buildings and discharging the handicapped individuals for placement in regular classrooms. Indeed, this concept has been fostered by some advocates. Until the phrase "least restrictive environment" is interpreted in a manner consistent with the law and the rules, there will continue to be a segment of the professional staff who will fight legitimate and valid integration of the handicapped students.

2. *Continued refinement of the individualized educational program (IEP):* At the present time, the IEP is both the strongest part of the federal legislation and also one of the most abused. There is general anxiety among staff members about the specificity of the IEP, the time taken to produce the document, and the usefulness of the plan when it is completed. To be meaningful and acceptable, much support and guidance will have to be given to staff members in the development of this plan.

It is important that the description of the IEP in the rules be emphasized. It is a document to present the services to be provided. It is not a document to describe the ideal educational setting. The latter is being pushed by some advocates who see the IEP as the tool for forcing the hiring of new staff members and initiating expanded "related services". It would seem that the question of adequacy should be handled outside of the IEP sequence through the appeal process.

3. *Training of general education staff members and higher education personnel.* One of the top priorities in Colorado is the training of staff to cope with the new legislation. Assistance is needed in upgrading diagnostic and evaluation skills, in working with parents throughout the sequence, and in development and review of the IEP. Although Colorado provided some \$4 million over a three-year period in the middle 1970's to prepare regular staff members for special education demands, the provisions of 94-142 have raised additional questions. Compounding the problem is a general feeling that higher education instruction is not geared to support the implementation of 94-142 and the numerous state statutes. Higher education personnel need to be updated in their expertise. Much of this inservice should properly be done in the public school setting with direct experience in the process. Few programs or provisions now exist for the inservice training of higher education personnel by having individuals go into the field and work with handicapped students and school district staff members on a day-to-day basis.

4. *Availability of special education staff:* The advent of 94-142 has meant a higher demand for psychologists, social workers, and other support personnel, as well as specially trained teaching staff. In general, in Colorado, the urban centers have been able to meet their staffing needs, but not without effort. The rural areas have been suffering from the lack of specialized personnel and many unfilled positions. Two factors are involved. One is the availability of such personnel and, second, the lower salary schedule provisions in the rural areas cannot compete with the opportunities offered in the metropolitan areas.

5. *Data and paperwork demands:* There have been additional data demands that have impacted the state agency. For the teacher, however, local and state data demands may be the culprit, rather than 94-142. Apart from the IEP requirements, much of the data required at the federal level have been items collected in our state prior to the passage of 94-142. Reduction of the concerns over paperwork demands must, therefore, be a joint effort by federal, state, and local officials.

Perhaps the biggest concern our state would have at this point would be the resolution of "counting" problems. One of the discouraging communications from the federal level was that dealing with a challenge to Colorado for not identifying an appropriate percentage of handicapped children. While we have identified a few more school-age children through the Child Find program, we very strongly feel that almost all of us 5-21 year olds have been identified. Advocacy groups have utilized the federal communication to criticize the number of unidentified and unserved students in Colorado. When challenged, few actual cases can be cited. Overidentification is a major concern of our state legislators and probably of most Congressmen.

In addition, declining enrollment in some areas has resulted in regular classroom teachers working effectively with mildly handicapped students. These are not unserved children. This phenomenon will be repeated many times as teachers continue to feel a reluctance to refer the mildly handicapped and go through all of the time demands relative to staffing and the development of an IEP.

State and federal officials should continue to refine counting definition and policies and eliminate problems in this area.

6. *Secondary educational programs to serve the handicapped:* There is a general feeling that one has in visiting schools that the elementary programs for the handicapped are going quite well. The major area of concern is the coordination of special education programs in the departmental setting of a secondary school. Procedural problems involving the referral, staffing, and development of the IEP when multiple teaching areas are involved are still unresolved in many school districts.

7. *Integration of general education and special education:* General education is now going through a great emphasis on accountability. In some states this is taking the form of a heavy emphasis on testing and graduation requirements. In our state, an accountability sequence is emphasized that requires an annual

assessment of the effectiveness of the individual school by staff, representative parents, and students. There is need for such programs to include judgment of the school's effectiveness in working with handicapped students and not to leave such judgments exclusively to special education personnel. Presently there is still a great tendency to isolate the special education program in the life of the secondary school. Principals will be key to this integration and support programs for secondary leaders should be given high priority when developing inservice programs across the country.

*"Avoiding the Land Mines". Major Public Issues Related to Public Law 94-142*

Congress and federal officials need to be knowledgeable of five areas of concern Colorado would have relative to the law and adopted rules for 94-142.

1. *The importance of maintaining stability in the rules and statutory provisions.* While there are some wording changes that Colorado would prefer to see in the present act, there is no urgency in change from our standpoint as long as there is flexibility in the interpretation of the law and the rules. Potential conflicts between the federal law and our state constitution have been resolved and the program is moving along well. In the introduction to the rules and regulations, a statement is made that the regulations are "minimum regulations at this point". There is need to have stability at this point without injecting new federal demands. If the rules were opened, there is a concern that the regulations would become more defined and prescriptive. Many state and federal conflicts have been resolved because of a flexibility and reasonableness on the part of the Bureau of Education of the Handicapped. It is our hope, therefore, that the reference to minimum regulations does not suggest the opening of these rules in the next few years.

2. *The potential of the concept of "related services".* The act and the rules indicate that related services to be provided to handicapped students are those supportive services "required to assist a handicapped child to benefit from special education". The potential costs and misinterpretation relative to this provision is probably the number one concern of boards of education in Colorado. Under present interpretation, there is reason to believe that this provision can be held in check but the potential is literally a "blank check" if broadly interpreted and supported through hearing or court interpretations. We have been urged to provide extensive psychiatric services to children and their parents in the public school setting in order that a child can be prepared for learning. Other aspects of this provision refer to "therapeutic recreational services" and "specialized equipment". A comment now in the rules regarding the Congressional committee intent regarding this definition is critical to keeping the related services concept within reason. Expansion of the intent in any way by Congress, federal officials, hearing officers, or the courts will have significant fiscal and psychological impact on state and local agencies.

3. *Needed reassessment of protection and advocacy legislation:* Under the Developmental Disabilities legislation of 1975 (P.L. 91-517, as amended by P.L. 94-103), there is provision for establishment in each state of a system of protection and advocacy for handicapped citizens. Monies are allocated to establish legal centers in each state. Each center has authority to pursue legal, administrative, and appropriate remedies to ensure the protection and rights of handicapped persons. This concept should be reassessed.

A protection and advocacy system that is oriented to informing parents and seeking administrative streamlining would not be objectionable. However, to have such a group initiating legal action, often paralleling the efforts of the Office for Civil Rights, makes one wonder about the validity of such federal expenditures. Establishment of such a legal entity in addition to the regional Office for Civil Rights and various other state protective commissions existing in most states, conveys to the state and local agencies a high degree of mistrust. It also provides federal money to a lobbying group and this certainly raises questions about the legitimacy of such authorizations when other Congressional directives are aimed at reducing or eliminating the use of federal monies to lobby Congress. Either the protection or advocacy entity in each state should be eliminated and its legal responsibilities transferred to the Office for Civil Rights or its mission should be limited to information and administrative remedy only.

4. *Careful monitoring of the appeal process under 94-142.* At the present time, a parent of a handicapped child may appeal to a hearing officer and ultimately



the state at any one of three points. If dissatisfied, the parent may appeal the assessment, placement of the child, and the appropriateness of the program. Each appeal can involve the selection of a hearing officer at the local level and the triggering of a state review process. In addition, although the school district may challenge this at a district initiated hearing, the parent may request an independent evaluation of the child at public expense. Congress should realize that an appeal pattern has been set that could, in the sense of providing equity, be extended to all students. Are we willing to provide an independent evaluation at public expense to all students? Are we willing to allow any parent to appeal placement and program adequacy questions to the state level for all students? A process has been accorded to one group of students that in most states is not available to the remainder of the student population. By passing local boards of education is a significant policy decision.

**5. Funding of special education programs:** There is widespread concern that Congress has mandated programs and is now retreating from funding commitments. School districts and states will have obligations but only partial reimbursement. Inasmuch as the services are mandated, the monies must be provided. Shortages are now tending to come from funds that would ordinarily be allocated for the education of the nonhandicapped child. For example, in Colorado for the 1977-78 school year, the direct special education cost over and above the dollars used for regular education of some 53,000 handicapped students would total approximately \$72 million. Of this total, \$34 million special education revenues were received from state and federal sources. The balance, approximately \$38 million, had to be redirected from the local school district general fund monies to make up the deficit in serving handicapped students.

If federal mandates increase the cost of serving handicapped students, or court decisions impose additional obligations, the cost of such changes, unless borne by state and federal monies for the handicapped, will more than likely come from dollars normally directed to the nonhandicapped student. In addition to the fiscal impact, there is a psychological consideration that must be noted.

**Looking Ahead:** High priority areas to be addressed by Congress and federal officials in the 80's

Local and state educational leaders will continue to seek adequate funding for programs serving all school age students. Inasmuch as some of the aspirations and goals set in motion by 94-142 are beyond the present school funding provisions found in most state statutes, the federal role in providing for the following four areas will need to be recognized.

**1. Expanded preschool programs.** There is almost universal agreement on the need for early identification and treatment of handicapping conditions. Congress should give high priority to expanding programs to serve the preschool, handicapped child. The state departments of education, in collaboration with other state agencies such as social services, institutions, and health, must be encouraged and supported in developing early identification and treatment programs. In Colorado, a few models have been established whereby newborn children diagnosed with potentially handicapping conditions can be served within weeks of birth. While some of these programs may be high cost, they are, in the long run, the most economical way of serving handicapped children and their parents.

**2. Programs to serve the handicapped teenager and young adult.** One of the aspirations many of us hold for the new Department of Education is that of coordinating those programs within the Department and those in the Department of Labor related to employment opportunities for teenagers and young adults. A proliferation of youth employment programs, such as the Comprehensive Employment and Training Act (CETA), as well as the vocational rehabilitation and vocational education offerings, have laid on excellent base for service to handicapped youth. A goal of independent living for moderate and severely handicapped citizens is now obtainable if the various programs can be coordinated. When the transition to independent living has not been made for many of the handicapped, the programs in elementary and junior high years are to a large extent wasted. Postsecondary vocational schools, community colleges, colleges, and universities need extensive assistance in order to make their programs available to some of the handicapped students.

**3. Needed research in regard to handicapped students.** At the present time, extensive efforts have been undertaken in the Bureau of Education of the Handicapped and the National Center for Educational Statistics to collect data for



Congress in respect to 94-142. Much of the data provided is descriptive in nature. That is, it provides insight as to the numbers being served, the pattern of services delivered, and feedback on the processes. Congress and many state legislatures are asking for evidence regarding the effectiveness and quality of the special education programs. Priority must be given to determining the outcomes of the various pieces of legislation.

In my judgment, too few monies are now provided for research and quality evaluation. While we have established national centers through the National Institute of Education in such areas as vocational education and teacher education, too little attention has been given to research in the education of the handicapped. Under the new Department of Education, better coordination should be sought for existing research programs, but long-range research studies should be outlined and proposed to Congress. Research relative to nutrition, prenatal and early child development care that would assist in preventing certain handicapping conditions would be a more desirable solution than developing educational programs to serve the handicapped when they reach school age.

4. *Special education funding and general financing of education:* At the present time, the federal government has contributed funds to states examining their school finance laws. These studies, referred to as Section 842 projects, need to be analyzed in terms of their potential for impacting financing patterns for programs for handicapped children. As states develop approaches for distributing monies to local school districts on the basis of the special needs of students, the federal funding of such students should be synchronized with the state approach. While per student allocations are now the approach being used at the federal level, the validity of this pattern should be examined as more and more states establish new financing practices. The federal distribution of monies under 94-142 and other federal categorical funds should enhance the achievement of equity being sought in the state finance proposals.

I wish to thank the Committee for the opportunity to present these thoughts in respect to P.L. 94-142.

IMPLEMENTATION OF PUBLIC LAW 94-142, EDUCATION FOR ALL HANDICAPPED ACT  
AND SECTION 504, PUBLIC LAW 93-112—NONDISCRIMINATION ON THE BASIS OF  
HANDICAP IN COLORADO SPRINGS SCHOOL DISTRICT NO. 11, STATUS REPORT, OCTOBER  
1979

I. Introduction.

Colorado Springs School District No. 11 is located in the largest urban area in the state of Colorado outside the Denver Metro area. Colorado Springs is a growing city of 230,600 and is located in El Paso County with a population of 833,000. The community is located at an elevation of 6,000 feet at the foot of Pikes Peak.

The District operates 38 elementary schools, K-6; 10 junior high schools, 7-9; and 5 senior high schools, 10-12. The student population is comprised of 0.2 percent native American, 1.4 percent Asian American, 6.2 percent Black, 10 percent Hispanic, and 82.2 percent White. The District employs 1,727 teachers, 265 other certified personnel, and 1,009 classified personnel. Two hundred and sixty employees have responsibilities in providing services to the handicapped student population.

When the Administration of School District No. 11 learned of the passage of the Education of All Handicapped Children's Act in 1975, the impression was that compliance to its requirements would not be difficult. This was basically because special education services had been provided to handicapped children within School District No. 11 in various forms since the mid 1950's. We were also increasing services to the handicapped as a result of the enactment of the Handicapped Children's Education Act in 1973 passed by the Colorado General Assembly which made such services mandatory and did greatly increase the financial assistance required for such programming. A review of our special education services from an October, 1979 perspective leaves us with mixed feelings. In consultation with other area school districts, we would like to highlight problems we have in the implementation of 94-142 and Section 504, but wish to do so with countering statements with what we have found to be beneficial results to our service to the handicapped students in our school district.

## *II. Problems of Implementation of Public Law 94-142*

Colorado Springs School District No. 11 faced a number of issues in implementing 94-142. In an attempt to identify the specific problems, the following appear to be the most visible:

1. Rapid growth and restructuring of special education programs to meet Public Law 94-142 regulations. From 1975 to 1978 there was a large increase in special education staffing to meet the needs of the Act. Examples of changes included: the refinement of definitions of handicapping condition, the restructuring of delivery systems, i.e., mainstreaming, and the expansion of ancillary and support services such as social workers and school psychologists. Another major issue faced was the coordination of the special education program staff and the regular building staff for commitment to the mainstreaming philosophy. Major problems included the resistance on the part of building staff to the due process procedure required by 94-142 which stated that every handicapped child be properly placed, have an individualized education plan, and the parent be involved in decisions leading to the services being provided their child. Some of these problems continue, but we feel headway is being made.

2. A second major problem of implementation was the availability of properly trained and qualified teachers. We had to employ a large number of provisional teachers on their commitment to complete college and university programs leading to appropriate state certification endorsed in the area of handicap that they were teaching. We have found that where our staff is fully trained and experienced the quality of service exceeds that of the entry level teacher. This was a major problem of other school districts in our part of Colorado as is probably true throughout the country.

3. A third problem is inadequate funding. A specific example of the problem faced during the 1978-79 school year rested on the delay of an approved state plan by BEH which has delayed funding already approved by Congress. District No. 11 used fiscal year 1978 monies for the school year 1978-79 and fiscal year 1979 monies for the 1979-80 school year. During the 1978-79 school year, special education expenditures from local and state sources totaled \$4,075,000 while the monies available from 94-142 and Title VI-B were \$104,000. These Title VI-B funds were designed to provide the financial assistance for locating all unserved handicapped children and to meet the supplemental educational needs of these children. A needs assessment demonstrated that over \$900,000 would be required to adequately address the needs as identified under Public Law 94-142. This delay of federal monies continues at this time to frustrate our ability to fully serve the handicapped student population.

4. Public Law 94-142 makes a number of promises, by implication, that handicap the local educational system in meeting the federal mandate stating an appropriate educational program will be provided. This problem is particularly visible in the strong and vocal attacks upon school districts by adversarial groups and members of the community. A typical statement is "you are required to provide this under Public Law 94-142", when in fact the district might be providing the requested service but not in the format or schedule demanded by the advocate.

5. The endorsement by Public Law 94-142 of "mainstreaming" as the major delivery method to serve the handicapped has impacted the special education program in District Eleven. We started serving the more severe in the fall of 1976 when a program to serve the Trainable Mentally Retarded (TMR) was established. Eighty students were transferred from the Department of Institution's local community program to the school district. The number now being served is 120, reflecting further deinstitutionalization of the more severe multiple handicapped. Adequate staffing for this program is a problem and is now a major focus for our increasing federal funds in an attempt to provide adequate and appropriate services.

6. Another concern is that we are in the early stages of developing programs to provide job skill training and effective transition for the handicapped student to independent community life. More resources need to be devoted to this effort.

## *III. Problems of Implementation of section 504 Public Law 93-112*

School District No. 11 has been reflective of the progress made throughout the country regarding the implementation of Section 504 compliance. This is not because of the lack of desire on the part of the Administration or School Board to comply, but rather the realization of the cost of implementation, par-

ticularly as it applies to building and equipment modifications. During our self-study of making buildings and/or programs barrier free, the cost estimates varied greatly, depending upon the regulatory interpretations being presented. Although interpretations have been somewhat clarified as to building modifications, some problems remain and need further clarification. An example here is basic educational programs versus elective program accessibility requiring costly modification of equipment. One program is the elective drivers education class which would require adaptive simulator and car equipment modifications. A time line for accomplishing all building modifications appears to be the only reasonable approach for our district to show our intent of total compliance. Of the district's 53 buildings, 22 have been constructed within the past 15 years and either comply or need only minor modifications to meet reasonable standards under Section 504. Our older buildings, however, are a different story. Therefore, the way regulations are interpreted is extremely important to the determination that we are either in compliance or not when looking at program accessibility. School District No. 11 has received little challenge to its efforts of compliance with Section 504.

#### IV. Recommendations

In attempting to offer any specific recommendations needed for further implementation of Public Law 94-142 and Section 504, the following might be considered:

1. A major effort should be made to clarify definitions and interpretations so that all federal agencies involved as well as state and local respondents, are communicating with one another and are talking the same language.
2. Heavier reliance should be placed upon field persons in formulating such regulation provisions by using the expertise found at the local school district level in addition to state and federal personnel.
3. More support is needed for developing secondary and post-secondary educational transition programs for the handicapped.
4. Long-range planning and goal implementation through such means as five year plans to evaluate where we are, what progress has been made, and where we need to go to improve the services for the handicapped should be continued.
5. The commitment of financial resources to complete the task which has been mandated is essential.

#### V. Benefits—a perspective

No statement concerning the problems of implementation of federal legislation such as P.L. 94-142 and Section 504 can be complete without the recognition that there have been some very specific changes that have benefited the handicapped population. The first and the most important benefit has been the raising of the awareness of district Administration, School Board, and public alike of the rights and needs of the handicapped population and their inclusion in the mainstream of our community. This has been increasingly evident over the last two years.

A second benefit is the consolidation of P.L. 94-142 and Colorado's financial assistance program which allows local school districts to have qualified personnel to service the needs of the handicapped student population. Without this financial assistance, progress toward program availability for the handicapped would be severely hampered.

#### STATEMENT OF CALVIN M. FRAZIER, COMMISSIONER OF EDUCATION, COLORADO DEPARTMENT OF EDUCATION

Mr. FRAZIER. Thank you, Mr. Chairman.

I am here representing the State of Colorado, but also at the request of the Education Commission of the States. It was felt that with Pennsylvania's comments and then Colorado's, maybe that would reflect some of the thinking of that organization.

I am going to reduce my remarks somewhat, because I want to second those remarks of Dr. Cronin and Dr. Hall, because I think that reflects a lot of the work of the 50 States. Mine will be in several parts.

First, I think I am going to stress the fact that we have just finished in the 1970's probably the decade of the special child, which is going

to be looked back on in education as probably one of the major advances during this century. I think we are all very pleased with it, and universally, as I ask our superintendents at various meetings, how do they feel this act has gone along with their own State act, and what has been the biggest achievement of the last 10 years, the special education effort and advancement always comes forth as the best effort that we have made.

I want to also commend, because sometimes I don't commend Federal officials. I want to commend Dr. Martin who has headed the Bureau of Education for the Handicapped for his efforts, because I think that without his sensitivity to the problems that many of us faced in terms of State constitutions, and problems that we had in implementing this, we would not have 49 out of 50 States participating. But Dr. Martin has been especially good in walking a tight line, and getting some things done.

It has improved all of education because I think as we have sharpened the diagnostic effort and the evaluation effort for handicapped children, we are doing a better job now with the regular children.

I want to briefly touch—on page 2. I have put down a classification called consolidating the gains, and I have listed these as administrative tasks because I think whereas Congress needs to know how they are going, basically the next items that I am going to list are things that we need to work on at the local, State, and Federal levels in the administrative area, because it is my feeling that we do not need to change the rules and the law. Therefore, these are kind of a summation for us as administrators of the act.

The least restrictive environment, I wish that we could have gotten away very early from the term "mainstreaming." This has given an image of taking—as one advocate said to me a few weeks ago, "I want to get to the point where we can take ambulances and go up to the State hospital, and move those kids over into regular schools, even if it means to just eat with the nonhandicapped child." I think that that kind of thing is irresponsible. It is not the wish many times of the parent of the severely, very severely handicapped child in the hospital to go out just to share the eating of a meal.

So, "mainstreaming" was an unfortunate term, but the act and the rules, I think, are clear in regard to least restrictive environment, and need not be changed. It is just the interpretation in getting through some of the "60 Minute" image, where they use the word "mainstreaming" in that show. It is very unfortunate.

Second, the IEP has been good. It has been abused in some ways in that staff members have found that they can put in an IEP the need for extra speech therapists, extra social workers, extra psychologists, and therefore bringing pressure to bear on the administration to force the hiring of additional staff.

I think that once we got through the fact that this was not to be a tool for pressuring administrators and boards, but that it was a team effort to develop a good IEP, we are eliminating that kind of a subtle pressure.

The difference is listing the ideal IEP and those that are achievable. I think. We got away from the ideal. I think, and the IEP is not a problem. In fact, it is very much of a plus.



The training of the general education staff members and higher education personnel. In Colorado, in the mid-1970's, we put in \$4 million to prepare people to implement our State's Special Education Act. This constitutes a little over \$100 per teacher to bring that about. We have found now that after 94-142, by and large there is a great need now to update the insight and the efforts of all of the staff again.

I am using that \$100 figure as an indication of what probably you are talking about if you get down to seriously thinking about what it is going to take to improve the background of all regular staff members, which it may take to get this done.

The other thing that I think seriously needs to be considered, and Mr. Chairman, I think you said something about higher education preparing school district personnel. I am out of higher education. I worked there for 7 years. Basically, I feel that higher education personnel are not prepared to help our school district personnel.

We need some programs that will allow higher education personnel in special education to take a leave of absence for a semester, and go out and actually work with people in the school districts, work with the students, work with parents, and learn what the impact of 94-142 is, otherwise it is a philosophical, esoteric thing, and our surveys of teachers have indicated that they have not found good programs on the higher education campuses.

No. 4, availability of staff members, we are short, particularly in the rural areas. That has been alluded to, and I just support that.

No. 5, lots of concern about data and paperwork demands. In our surveys we found that much of the paperwork demand came about because of local and State requirements. I want to say that federally, we are not blaming you as bringing about all of the demands at the local level. At least that is our Colorado survey.

The IEP, naturally, led to more paperwork, but we were very close to that with our own State act. I have criticized you before for that, but I am not criticizing you in this area.

The accounting problems—I objected to a letter earlier from BEH, which said that we had to go out and find more kids. Colorado did not find appreciably more kids when 94-142 went in because we had been in our act for 5 years. We had about 55,000 kids identified, and we probably did not go up more than 1,000 after 94-142 came out. I think that we are not out scrounging around students. I have warned local administrators not to do this.

We are in a position as many States are of having a declining enrollment in many of our school districts, not all. As you get the enrollment down in classrooms from 1 to 18 to 1 to 15, there is a desire on the part of some teachers to work with the mildly handicapped because now they have a possibility of doing so, and it saves filling out all the IEP, and everything else.

I think that we have to be realistic that these kids are not unserved. They are, in fact, being served. They are not being reported, and making the statistics look good.

The secondary programs are of major concern. I think in visiting a lot of schools, as I do, elementary goes well, and the secondary is struggling. This has got to be a major effort for us in in-service.



The seventh item here, special education has to be brought into the fold. That is, it cannot continue to operate in isolation of the main program. It cannot be, "these are special education kids. These are special education teachers." We have to unify those staff to a greater extent, and that is an effort in Colorado.

Now, avoiding the landmines. I have listed four or five things here that have been alluded to. If anything creates a backlash toward this act, it will be one of these items that I have listed here.

No. 1, at the bottom of page 4, there is in the rules a very early reference to the idea that these are minimum regulations, and that with experience we will undoubtedly expand these. I think that that is an unfortunate statement. With the feeling that the general public and educators have about rules and regulations, to consider that these are minimal, I shudder. I think these are good regulations at this point, and we should not change them. We should understand them and make them work, but we should not expand them.

Second, the potential or the concept of related services, it was an excellent statement by the State senator from Pennsylvania, which I would echo. We have demands to treat the parents and provide expensive psychiatric treatment for parents with the idea that this is a related service, and that the child is not going to be able to function until the parent can function well as a parent.

So that term, "related services" is always being pushed to the limit by hearing officers, and this is a great concern to local school boards.

We, right now, pay out of the Federal money 25 percent of our moneys toward related services. So for us, with \$9 million, \$2 million go for related services. That figure is going up every year as parents find that they can demand special equipment, recreational therapy, and so forth. You are going to see that this is where the high cost is in this act.

I would caution you about any expansion in this area. I think that it is working well, but we are working very hard to keep a lid on it.

No. 3, I want to focus on this because this is a sore point in the State of Colorado. You have, under another act called the "Developmental Disabilities Act," provided for what is known as the P. & A., the protection and advocacy programs, in each State.

So money comes in under that act to fund this protection and advocacy unit. It is appointed out of the Governor's office. This group, then, comes to be known as the legal center, and promotes legal, administrative, and other approaches to protect and advocate for the handicapped.

Our concern is that at this point local school districts and the State are hit by a funded Federal program that should properly be under the Office of Civil Rights. I see no reason why you should have an enforcement agency operating apart from OCR.

It is good to include the administrative and parent information aspects, but to have one more group coming in to blast you and criticize you, and the next day pick up the phone, and it is the Office of Civil Rights. The third day, you pick up the phone, and it is the State's Office of Civil Rights. I tell you, at that point you have had more than you need, and you have probably solved the problem after the first call.

I think that it is not a legitimate use of Federal moneys, and I would bring that, I think, on behalf of all of the States.

The fourth item is the monitoring of the appeals process. I think we have got to look at the fact that the IEP has been popular, but there are three points of appeal. If you don't like the evaluation, you get a hearing office, and you come to the State. If you don't like the placement of the child, you get a hearing office, and come to the State. If you don't like the appropriateness of the program, you get a hearing office, and come to the State.

There are three places where you can appeal all the way to the State. If this becomes popular, which it is with gifted and others, there will be a reaction now that will affect the handicapped because people are going to say: "You are now bringing a halt to the ability of Government to function," just simply through all these appeal processes.

We have not had any appeals at the State level yet.

Mr. STACK. How many of these cases wind up in court, in the judicial system?

Mr. FRAZIER. Well, none in Colorado. I can only say that to all the parties in Colorado: "Call me. Call the State office before you get so heavily involved that you end up in court." So we end up with a great deal of mediation, and conciliation, and we have had no State appeal.

So at this point, it is working. But it is laying there as kind of a potential high cost.

The fifth, the funding of special education programs, that has been alluded to. I just want to give you four figures, and answer a question that I think Mr. Coleman asked from our standpoint.

We put in for the education of handicapped children \$145 million; that is, for 53,000 students. Out of that, about \$74 million would come from the Normal Education School Finance Act, and approximately \$72 million of that would come from special education moneys.

Right now, we receive from the State and Federal levels something like \$34 million, which leaves us with a \$38 million gap, and I want to focus on that gap for a moment because to make that up, local school districts, then, move that \$38 million out of their general fund expenditures for the nonhandicapped to complete the cost of that \$145 million bill from the special education. I think that this is where the backlash is going to come, if that figure grows and grows, and we have to deny programs to the nonhandicapped in order to fund the handicapped.

I would like to see the Federal Government divide the excess cost. That is, we pay the cost that we would pay to all students, that half of it roughly, and then the balance of the half, half would be State and half would be Federal, in terms of those excess costs. That is what your act implies, we suggest, and I think that is not unreasonable.

Very quickly, looking ahead of the 1980's, without changing where we are now, there are four areas that I feel we ought to focus on. No. 1 is the expanded preschool program.

One of you asked, "Should we fund education down to age zero?" We are finding that the best programs are those that are of a collaborative nature, where it is health, social services, where everyone comes together.

Where we have been able to get this operating in individual towns and communities, within hours after a child is born with a handicapping condition, it is not just education that gets involved, but it is even the groups like the Heart Foundation, all of these societies come

into play, and we have a meeting of about 12 people who start immediately working to see what they can do to prevent that condition from getting worse, and aiding the parents.

In other words, I am saying, not just fund education, but look at what your other social services should do in that area.

No. 2, our hope for the new Department of Education. We have seen a very fragmented approach disturbing the older handicapped students. That is, as they are finishing their upper teenage and young adult period, the vocational rehabilitation struggles along, and they do a pretty good job, but they have difficulties. The vocational education comes along, and they struggle.

We need a really coordinated effort, and with the involvement of CETA and the Department of Labor. I think that there is no reason now why we cannot have good programs to serve the handicapped as well as the nonhandicapped in those older age groups, but it is going to have to be a high priority of that new department to bring this about.

Item 3 is a special plug that I would like to make. Someone at the Federal level needs some vision to prevent handicapping conditions. I will tell a story, too, but not quite as funny as Mr. Erdahl's.

Mr. STACK. I did not think that it was so funny. [Laughter.]

Mr. FRAZIER. A man crossing a stream heard a cry for help. He went over and pulled the person out. He felt very good about what he had done. Then, he realized that another person was shouting for help. He went over and pulled that person out. Before he got that person ashore, here came another one.

Finally, he left the people go and went upstream, and found that the bridge had broken, several of the planks had broken, and the people were falling through as they came across. So he fixed the bridge.

Really, what I am saying is, with what we know about genetics, nutrition, and a lot of other areas that have been developing here, we need to expand our research into the prenatal care, and the early developmental area. This is something that I don't see coming through from recommendations by the executive branch.

There is an effort now to report back to you how well we are doing in terms of how many IEP's, how many kids served, and so forth. But that will only carry you so far, and then the public wants to know: Are we having an impact? Are we improving the quality of life? Are we preventing handicapping conditions?

I think NIE stayed out of this because they thought that it was for the Bureau of Education for the Handicapped to work on. BEH felt that they could do only so much because of their dollars. This is a high priority area in terms of getting into the 1980's, and I really want to plug that while I am before this committee.

Lastly, the funding. there is another coordination that is needed. You have provided moneys under what is known as section 842 for all of the States to develop meaningful school finance plans. Many of these are beginning now to say that if Cal Frazier is handicapped, we will provide so much money from the State to the local level.

You need to be sure that your programs are funding in a manner that is consistent with the equity programs developed at the State

level, or you could be in a position where you are disqualifying, and creating an inequity in terms of the funding patterns.

I am merely saying that the data is building in other areas, outside of the handicapped, and they should be coordinated with your funding program for this particular bill.

Mr. Chairman, I think that those are my main comments. I appreciate the opportunity to be here.

Mr. STACK. If I may, at the local level, vocational education has had an impact nationally, are you able to incorporate any of the vocational education into the welfare work we are discussing?

Mr. FRAZIER. We are going to be able to use some. But the interagency agreement that we are signing with the vocational education, which is a very good part of this act, there was a danger in the original Federal legislation that you could be repeating many of the aspects of 94-142. We have joint meetings to cut down on the staffing, the evaluation, the assessment time, but that is a real problem at this point, the duplication.

Mr. STACK. Another thought occurs to me. With the tendency for classroom size to decrease, which is obviously taking place nationally, if there is not a similar decrease in the tax base, doesn't this make more local funds available for the purpose that we are talking about?

Mr. FRAZIER. The only thing is, I think in most States, as the decline in population comes on, you qualify for less State money, and you also qualify for fewer local property tax dollars. Because that is based on the number of children you have, that is automatically going down.

Mr. STACK. I am thinking that the total dollars should be there, and with the reduced class size, more teachers would become available for special education programs, and so forth. I am wondering whether this is something to which we could give more consideration, which would make more funds available in the long pull.

Mr. FRAZIER. I don't think that it is a way of making more funds available.

Mr. STACK. I am assuming that the tax base stays up.

Mr. FRAZIER. Even if the tax base stays up, as an educator, I get less funds because I have fewer kids.

Mr. STACK. If that is viable, can we change that, as this phenomenon grows?

Mr. FRAZIER. I would say that it is an issue in most States.

Mr. STACK. I think that this is an area that we must address down the line.

Mr. Erdahl?

Mr. ERDAHL. Thank you, Mr. Chairman. But shouldn't we have the second testimony first?

Mr. STACK. If that is the pleasure of the committee, you may proceed, then.

#### STATEMENT OF RICHARD AYERS, SUPERINTENDENT OF SCHOOL DISTRICT NO. 11, COLORADO SPRINGS, COLO.

Mr. AYERS. Thank you, Mr. Chairman.

Actually, what I have to say this morning is more a status report from a local school district in southern Colorado than testimony that would be given to you. However, I do appreciate the opportunity to

visit with you this morning, and express to you some of our concerns, and some of our beliefs concerning Public Law 94-142.

When we learned in district No. 11 of the passage of the Education of Handicapped Children Act in 1975, our impression was that compliance would not be too difficult in our area. I think this is because we have had special education programs in Colorado for a number of years, as Dr. Frazier has indicated and, second, because in our particular area we have serviced special education programs since somewhere in the mid-1950's.

However, since 1975, we have had some concerns and problems that have occurred as far as this law is concerned. But we also want to be sure that we point out that we have found many beneficial results from 94-142 to the service for the handicapped children population that we are serving in our particular school district.

Some of those problems and concerns are:

Rapid growth and restructuring of the special education programs to meet Public Law 94-142 regulations. A large increase in special education staff did occur because of this, which was a concern and a problem. There was a refinement of the definition of handicapping conditions for the various kinds of programs that we were to provide for youngsters, and the restructuring of the delivery systems that needed to be used through the entire district, such as mainstreaming. Of course, the expansion of support services to special also has been of concern.

One of the greater problems that we did face was the availability of some properly trained and qualified teachers. We had to employ, in our district, a large number of provisional teachers on their commitment to complete appropriate educational plans for the teaching of handicapped.

We have found that a staff that we are able to employ, and that is fully trained and experienced, the quality of service far exceed that of entry-level teachers. This has been problem for us.

Inadequate funding—the one way that we will be frustrated in the programs in the programs that we are trying to offer and feel we should offer to this population in our community is not to have the proper funds, or the funds necessary to serve this population in our area.

The endorsement of mainstreaming has been a problem as a major delivery system to serve the handicapped. It has impacted the entire special education program as far as our total district is concerned.

We also have another concern that we are working to work in in our district, we are developing programs to provide job entry skills and effective transition for the handicapped student into independent community life, which we feel we have not done in the past, but must pick up and do in the future for these youngsters.

Briefly, in closing, the status report indicates that there are five recommendations that we would request be reviewed.

One. To continue clarification of definitions and interpretations of Public Law 94-142 as far as using the same language in communicating the needs and the requirements.

Two. Place a heavier reliance upon field personnel in formulating regulation provisions.

Three. Greater support for developing secondary and post-secondary transition programs.



Four. Continue with long-range planning and goal implementation.

Five. A commitment of financial resources to complete the tasks which have been mandated, and that we have accepted.

As I pointed out a moment ago, first and foremost, the most important benefit that we have received from 94-142 has been the raising of an awareness of the district administration, the school board and the public alike of the rights and the needs of the handicapped population, and their inclusion in the mainstream of our total community.

Second, it has allowed the school districts to have qualified personnel to service the needs of handicapped student populations through its financial assistance program. Without this assistance progress toward program availability for the handicapped would be severely impaired as far as our particular district is concerned.

Thank you to the committee.

Mr. STACK. Thank you very much.

Mr. Erdahl?

Mr. ERDAHL. Thank you very much, Mr. Chairman.

I think that it has been good to have the two gentlemen here, to hear from the State level, and especially from the local level because that is really where we sit down and work with the kids. That is what it is all about.

It was mentioned that in Colorado everything is working quite well as we look at this public law on the elementary level, but not quite so well on the secondary level.

Is that a case of catching up, or gradually getting into it, or do the problems arise in the adolescent years?

Mr. FRAZIER. We had a meeting about a month ago with the Teachers Association, and let me cite a specific example about that. The staffing in the development of the IEP suggests that you should have all those people that are working with the student develop a unified set of objectives in the activities that are going to be carried on. This, then, is presented and worked out with the parents involved.

At the secondary level, instead of one fourth grade teacher, you have got now industrial arts, music, and so forth, and the scheduling was the big problem. It was the mechanical problem of bringing all of the people together and participating in the IEP.

What we found was that the districts would have one person, then, in terms of the management team, write the IEP, and then go to the industrial arts person, and say: "You are going to be getting Cal Frazier pretty soon, and that is what we want you to do with him." There was resentment because that teacher was not involved. So, we found this pattern over and over again.

It is a mechanical thing that we are going to have to work out, but right now it is not leading to a good, well-developed IEP that I think parents could justifiably criticize.

Mr. ERDAHL. In other words, what you are telling us is that it can be worked out administratively on the local or the State level, and we don't really need to change the statute, or change the rules.

Mr. FRAZIER. That is my feeling. We have tried management teams. I think Colorado Springs has done this. It has had good results. It is a special competence in those special areas, industrial arts, home eco-

nomics, art, music, where many times they say they need that experience, and we will put them in there, and the person is unprepared to deal with it.

Mr. ERDAHL. Thank you very much.

I will yield to my colleague from Colorado, Mr. Kramer.

Mr. KRAMER. Thank you.

Gentlemen, I want to welcome you. I appreciate both of your remarks very much. I commend you in terms of the thrust of your testimony. Although you mentioned funding difficulties, I think the thrust of your remarks were such that they could lead to important statutory changes that perhaps would not involve new spending, or at the least which could result in a more efficient use of funding which has already been allocated. I appreciate this because it is something I want to help foster. We know how difficult budgets are.

I would like to ask you for your opinion on some of the things your testimony has brought out. I quite frankly would like to work with your office insofar as developing some specific language that might be inserted at the point when it becomes appropriate, which can be used to give the Congress the chance to make some of these changes.

Do you feel that the statutory definition of "least restrictive environment," ought to be clarified further by statute so that one segment of the professional staff will not continue to fight for a much more expensive concept? In other words, to pick up the children at Pueblo and bring them to Colorado Springs.

Do you think that that needs to be resolved legislatively?

Mr. FRAZIER. I don't believe so, but I am reacting from one State where we have said the law is clear in its intent that you serve anywhere from the regular classroom along the continuum to an institutional setting. I am saying that for the good of the child, and plus considering the hardship that this would create to the receiving service delivery team, if it is moving him into the regular school. That hardship has to be considered, but also the child.

The law covers this if you are just firm in arguing it up, and saying finally, "Go to court."

Congressman Kramer, I don't see a need to change that, because I think the abuse has been in the interpretation given to it by the advocacy groups, and not what is in the law or the rules.

Mr. KRAMER. I am wondering, in light of that advocacy, whether or not some sentence structure ought to be added to no longer make that an arguable point.

Mr. FRAZIER. If you can clarify that, it would be acceptable.

Mr. KRAMER. But you don't see it as a problem.

Mr. FRAZIER. No: I see the biggest problem in making sure that related services is clarified, because there Congress has so much at stake.

Mr. KRAMER. That was the next thing that I was going to address.

Mr. FRAZIER. Yes: you have so much at stake in that phrase, because that is where the dollar cost is.

Mr. KRAMER. In the testimony from the senator from Pennsylvania, the thing that stuck out was that the existing law did not talk about "necessary." It talked in terms of assistance, rather than things that are necessary to enable the child to be educated.

Do you have any specific concepts in mind at this point as to how you feel the related services ought to be defined?

Mr. FRAZIER. Right now it says, "required for the education of the youngster." That is extremely broad. I don't have a specific recommendation. I normally do, but on that one, I don't. The BEH has relieved us of some pressure on this by saying that the required services are what you develop in the IEP at the local level, and that you, therefore, have control of this.

We have followed that direction, and said to local school districts: "You control what you write in the IEP in the required services, and then go to court if you disagree." So, we have taken their advice, and we have not had many appeals.

If there is a way to clarify it, and yet not eliminate it, I think I would like to look at the possible wording on this. But I don't have anything to offer.

Mr. STACK. If I may interpose here: "What is required for the education of the child," that broad definition gives more authority to the local agencies. I don't think that we should try to define this language at our level, and impose further restrictions on the local authorities.

Mr. KRAMER. It is my understanding from the testimony that because of the way the statutory language reads that it is widely interpreted by many as requiring the local school district to go so far as to provide psychiatric treatment to parents who cannot cope with the problem of having a child who needs special education. I don't think this ought to be part of this legislation. In order to allow the local communities to go about the business of educating children as economically as possible and still meet the objectives of this act, I think we ought to try to reduce those kinds of situations on which time and money is being spent for what constitutes ancillary services.

Mr. STACK. I would not want to enter into a debate on philosophy with you, Mr. Kramer, but I am suggesting that that broad language gives greater scope to the local agency, which is where the decision-making should reside. When you say, "we," you mean the Congress of the United States, and I don't think that that is the proper agency to give a precise listing of what are required related services. I think that the language in the act is desirable.

Mr. KRAMER. I don't think that we disagree. I think, perhaps, one of the possible approaches we ought to look at is something where these kinds of services will be determined by the local communities. This would give them the ability to define those needed ancillary services.

The problem right now is vagueness in the law which some witnesses said required them to provide services they don't feel they ought to be providing.

Mr. FRAZIER. Congressman, may I pick up on that?

Right now you are protected by an interpretation from BEH, which I think has made this workable. I also know that BEH has been under considerable pressure to broaden this so that more related services can be brought in. If there is some support that can be given by Congress to that rightness of that BEH determination that it is a locally determined thing, then BEH may need that kind of support. That is very true.

Mr. KRAMER. What about the paperwork demands that you cited in your testimony? I am especially concerned about quotas. That disturbed me. What is the present situation with that?

Mr. FRAZIER. We have cut back on the IEP. We have found early that some of the IEP's ran—I am sorry to say this, and I hope that it is true in other places than Colorado, the word went out and we had 20- to 22-page IEP's being produced. Those were excessive. They were beyond what is required. We are now saying, "Stay with one page." Frankly, the parents appreciate the simplicity of looking at a one-page statement, and understand it. We are cutting back, and we are trying to reduce it to that one page.

Mr. KRAMER. I am also concerned that you received a discouraging communications from the Federal level which challenged you for not identifying the proper number of handicapped students. What is the status of that?

Mr. FRAZIER. We ignored it because we have gone over that Federal child-find and we are not finding any more kids, and we have so informed BEH. We have the maximum. We have no appeals. We are not identifying them, and they should not count on us for raising the numbers.

Mr. KRAMER. Is that an area that needs a statutory change?

Mr. FRAZIER. We found, as we looked into it, that it came down to some disagreement over the definitions of handicapped, and that would be a question to pursue with BEH. to see what the difference is between States on that issue. If there could be some clarification, so you know that all 50 States are reacting to the same definition, Congressman, that would be desirable.

Mr. KRAMER. Do you have any specific recommendations as to how the appeals process can be narrowed, or at least restructured so it would be more easily administered?

Mr. FRAZIER. In concept of government, we are very reluctant, because in Colorado, as in other States, we felt that once you started having an appeal to place a child from one classroom to another classroom in special education, and where the State was implied as being the final determiner to where they would override the local board on moving that child, we took a counterposition and said: "Yes, you can appeal it to the State, and we will review it. But we, in turn, give our information back to the local board, who will make the final judgment."

In other words, there is a hearing officer, and then a State review of whether or not the factors have been considered, and then it goes to the local board, and we feel that the local board, given this input, accepts those decisions and correct it themselves.

Now, under 94-142, it can go to the local board. If dissatisfied, you can come to the State, and the State is put in the position of overriding that local board. I think that that is a mistake, and I appreciate being allowed in Colorado to have that information flow the other way, so that the Board is the final determiner.

However, now there is a question posed by some legal people in our State that we are operating contrary to the Federal law.

Mr. STACK. Which you are.

Mr. FRAZIER. Yes; but it is very workable. It is maintained with almost full participation of our districts, who see that they can do the act, and still stay within the State constitution.

Mr. KRAMER. Do you have any problem with that? Do you see any problems on the horizon?

Mr. FRAZIER. No.

Mr. KRAMER. Somebody is saying that you have got to adopt a new appeals system?

Mr. FRAZIER. Yes; but right now it is working.

Mr. KRAMER. The last question I have is about advocacy. How much money in Colorado is going into advocacy, how many Federal dollars?

Mr. FRAZIER. The national budget, I believe, is about \$3 million for those legal centers. So, in Colorado, it is around \$30,000. What in practice has happened is that that \$30,000 is then put with donations from independent associations, so that you are looking at a budget of maybe \$70,000 to \$90,000, or more. Then, that gives you a basis for legal suits. So, the Federal moneys provide kind of a core out of which will come a lot of other dollars.

To me, the newsletters have been very divisive. They tended to create a hostility between parents and local and State agencies.

Mr. KRAMER. Do you have any specific suggestions about that?

Mr. FRAZIER. Yes.

Mr. KRAMER. What are they?

Mr. FRAZIER. No. 1, they should stay out of the legal enforcement aspect. They should be primarily looking to improve the administrative procedures, and information groups to parents. But at the point where they feel there is not compliance, it should be turned over to OCR. You should not be funding a war chest to bring suits through one Federal agency involving the OCR. I think there is a conflict there.

Mr. KRAMER. How many suits are there currently pending?

Mr. FRAZIER. We have had many suits, and we are down to the last stage in some instances, or we either go to court, or they withdraw.

Mr. STACK. I thought, when I asked, that you had said previously that you had not gotten any.

Mr. FRAZIER. No; we have not gotten into that. I am just alerting you to a danger.

Mr. STACK. Your testimony is quite clear that you see the State as having a limited role.

If you will yield, Mr. Kramer, I am sorry that Mr. Erdahl is not here, but he will have a chance to read the record, but if he would accept correcting language in which the "Congressman" becomes a "Senator," because the term Congress is used so broadly, then I would go along with him. I would point this out even in his absence, because he will have a chance to read the record, and then I will say that his story is acceptable. [Laughter.]

Thank you, gentlemen, for your testimony.

Mr. FRAZIER. Mr. Chairman, may I add one thing, which I know has been raised, and I have a note to read. I called a lot of school districts to find out if there was any use of a canned IEP, that is, something that was already predeveloped and distributed. I found no use of that in Colorado. I wanted to point that out.

Mr. STACK. Thank you, gentlemen, very much.



Now, we are going to hear from Mr. Daniel Yohalem, legal coordinator, Children's Defense Fund. Then, there will be one additional panel.

**STATEMENT OF DANIEL YOHALEM, LEGAL COORDINATOR,  
CHILDREN'S DEFENSE FUND**

Mr. YOHALEM. Good morning, Mr. Chairman.

My name is Daniel Yohalem, and I am testifying on behalf of the Children's Defense Fund today. I will highlight my written remarks in the name of brevity, and would appreciate my written testimony being incorporated into the record of these hearings.

Mr. STACK. It will be incorporated in the record at this point.

[Prepared statement of Daniel Yohalem follows:]

**PREPARED STATEMENT OF DANIEL YOHALEM, LEGAL COORDINATOR,  
CHILDREN'S DEFENSE FUND**

**PUBLIC LAW 94-142: OVERSIGHT HEARINGS**

Mr. Chairman and Members of this distinguished Subcommittee: Thank you for inviting me here to testify today in regard to Public Law 94-142, the Education for All Handicapped Children Act.

I am testifying on behalf of the Children's Defense Fund, a national, non-profit, public interest organization created in 1973 to address systematically the conditions and needs of children in the country, particularly poor, minority and handicapped children. CDF has gathered evidence and issued reports on specific problems faced by large numbers of these children, including the 1974 nationwide study: "Children Out of School in America," documenting the ways in which handicapped and other children are systematically denied an education by the nation's public schools. CDF seeks to correct problems uncovered by our research through monitoring of federal and state administrative policies and practices, litigation, the dissemination of public information, and the provision of legal and technical support to parents and local community groups representing children's interests.

The Children's Defense Fund applauds Public Law 94-142 and appreciates the role that this Subcommittee played in the development of this important Act. Public Law 94-142 sets forth the fundamental rights necessary to insure that all handicapped children receive the free appropriate public education to which they are entitled.

As you are very well aware, this Act was not hastily enacted, nor is it a short-term experiment in new social theories. This law was passed only after years of public hearings, debate, consultation and investigation. It represents Congress', indeed the country's, best judgment about the essential rights needed to combat centuries of exclusion of handicapped children from the Nation's schools. And, as the legislative history indicates, it also represents Congress' statement of what the U.S. Constitution requires for handicapped children.

We began representing handicapped children before the enactment of Public Law 94-142, when de jure exclusion from all public education was still a common policy. Without doubt, this legislation and Section 504 of the Rehabilitation Act of 1973 are the cornerstones of these children's educational rights. These laws allowed us to push open the schoolhouse door for children like Donnie in South Carolina and Sarah in Mississippi. Donnie is a young emotionally disturbed child whose handicap had been ignored for years by an elementary school that had repeatedly suspended him instead of providing appropriate services. Sarah has cerebral palsy and had been excluded from school because of her school district's refusal to provide adequate transportation. Both children are now being provided the opportunity for an appropriate education.

CDF has prepared and distributed to thousands of parents, advocates and lawyers throughout the United States an advocacy handbook describing the law's requirements. As a result, we have received a great many calls for advice and assistance from parents and advocates raising major concerns about state and local compliance with the law. This, in turn, led us to help organize a coal-

tion of national and state advocacy groups to monitor the implementation efforts of state education agencies and the federal Bureau of Education for the Handicapped. Lastly, through our own special education litigation, most notably against officials of the Mississippi State Department of Education in *Mattie T. v. H. H. H. v. H. H. H.*, C.A. No. DC-7531-S (N.D. Miss., February 22, 1979), we have gained an in-depth understanding of the real barriers to implementation of Public Law 94-142.

This broad and deep perspective brings us both good news and bad news. The good news first: Large numbers of handicapped children who were previously unserved or out of school entirely are now being provided appropriate educational programs. Many parents who prior to the passage of Public Law 94-142 used to call or write us about their school districts' lack of concern for special education now tell us they know the procedures to follow to address their complaints. Some children who were previously forced to live in institutions far from home have been reunited with their families and provided, either directly by their school districts or under contract, day programs that are appropriate to their needs. When implemented properly, with necessary support services, mainstreaming (what the law calls "Least Restrictive Environment") has meant the integration of handicapped and non-handicapped children in normal school settings, not the dumpings of handicapped children on overworked teachers in inappropriate programs. The impartial "due process hearing" procedure has worked when the hearing officers have been independent of the educational agencies and when their decisions have been backed up by the state educational agencies.

In short, Public Law 94-142 has meant a new chance for many handicapped children. When implemented properly, its comprehensive approach—which includes the Free Appropriate Public Education, the IEP, Procedural Safeguards, Protections in Evaluation, and Placement in the Least Restrictive Environment—has achieved the results Congress intended.

But the picture is unfortunately not entirely rosy. The law requires the state and federal governments to develop sufficient policies, monitoring procedures, technical assistance and enforcement tools "to insure" that all of the rights and procedures of Public Law 94-142 are in place for all handicapped children, whether they are presently in school district or state-run programs. It is CDF's firm belief that if this were done, the many compliance problems we see would be resolved. However, neither the Bureau of Education for the Handicapped (BEH) nor many state educational agencies have exercised sufficient leadership or creatively used the resources and authority the law has given them to implement these policies and procedures.

As a result, parents throughout the country are still encountering significant compliance problems. Some of the most prevalent and serious are:

1. Misclassification of poor and minority children as mentally retarded. Because of inappropriate referral and evaluation procedures, black children are being classified as mentally retarded at a rate three times that of white children and classified as learning disabled at a rate one-third that of white children.

2. Children are being denied essential educational services because of impermissibly narrow definitions of "related services" and a continuing lack of clarity among state and local agencies about the service delivery and funding responsibilities for these services. The legislative history of the Act demonstrates the Congress' desire to lodge clear responsibility in a single agency—the educational agency—for provision or arrangement of a broad array of "related services" necessary for the child to participate in an educational program. The Congress did this to end the bickering among agencies and consequent denial of services about which it heard so much testimony.

3. The Least Restrictive Environment requirements are not being enforced properly. Some children are still being placed inappropriately in segregated settings and others are being dumped in regular settings without appropriate support services and assistance for beleaguered teachers.

4. Children in foster care and institutions are still falling through the cracks and being denied the protection of Public Law 94-142 because of inadequate interagency agreements and follow-up and the absence of sufficient surrogate parent programs. Many children in institutions are not being provided appropriate programs, IEPs and due process.

5. Children living at home are not receiving appropriate educational programs because many school districts do not recognize parents as partners in the IEP process. Instead, predetermined, "canned" IEPs are forced on parents in pro-

forma IEP meetings. Parent after parent testified in hearings during July before the Senate Subcommittee on the Handicapped about the difficulty they are having participating in the meetings and influencing the content of their child's IEP.

State educational agencies have been slow to: (1) develop clear policies in these areas, (2) launch extensive monitoring efforts so they are aware of the status of compliance, (3) provide sufficient technical assistance to bring school districts and other agencies along, and (4) apply sanctions when necessary to force implementation. In order to carry out these duties, the state agencies need better leadership and assistance from BEH than is presently being provided. For example, policy decisions clarifying the meaning of a number of federal regulations need to be developed, guidance on how to effectively monitor local programs must be provided, and a strong mandate for training parents and teachers must be articulated.

Is it hopeless? Is Public Law 94-142 condemned to be more of a promise than a reality? We do not think so. In the *Mattie T.* case mentioned earlier, we won a major victory on behalf of the class of all handicapped children in the State of Mississippi. In this suit we challenged the failure of state officials to develop policies, monitoring procedures and enforcement mechanisms sufficient to insure that procedural safeguards, child find, non-discriminatory evaluations, and placements in the least restrictive environment were provided throughout the State.

When we filed this case in April 1973, there were virtually no policies in these areas, monitoring was minimal, and there were no enforcement mechanisms at all. As a result, thousands of handicapped children were unserved, thousands of others were in segregated settings, and minority children were being misclassified as mentally retarded. Federal District Judge Orma R. Smith found the State in violation of the children's federal statutory rights and on February 22, 1979 the State entered into a comprehensive consent decree (See Exhibit A), specifying the steps it will take to remedy the situation.

Under the pressure of this lawsuit, a great many changes have taken place in Mississippi. The State Department of Education has begun to assume its proper role in the State as the implementer of Public Law 94-142. By issuing clear policies, monitoring state and local agencies, and guiding and pressuring these agencies into compliance, the State is already serving many more handicapped children and moving them out of segregated settings.

It took a great deal of effort in the *Mattie T.* case to move the Mississippi State Department of Education. Public Law 94-142 should not have to be enforced through litigation. And, as a practical matter, there simply are not sufficient resources at CDF or in the public-interest sector at large to bring this same kind of legal action against each state educational agency. An active federal role would obviate this problem.

BEH must greatly accelerate its transformation from a relatively passive grant-giving agency into a forceful compliance agency with all the tools necessary to fulfill Congress' mandate under Public Law 94-142. BEH must develop the ability and the will to deliver clear policy messages to the states, determine the status of actual (not just paper) compliance, and mix technical assistance with enforcement power to move recalcitrant state bureaucracies.

This requires a combination of creativity, focus and staffing. BEH presently only has approximately 12 professional (ten State Plan officers, two compliance officers and two policy officers in its Aid to States Branch) who are responsible for Public Law 94-142 compliance for the entire 50 States and the territories. Further, BEH has shown a reluctance to take strong steps to implement Public Law 94-142. For example, faced with clear evidence in almost every State of the lack of real parental involvement in the IEP and due process system, especially for poor and minority parents, BEH has not required any of the States to expend their discretionary funds on critical parent and parent-advocate training. As another example, despite confusion in the States about the definition and scope of "related services" under the Act, BEH has issued no policy clarification. Lastly, BEH's own monitoring often fails to focus on the real special education picture in the States because of its preoccupation with form. Each of these problems can and must be solved.

Will the creation of a new federal Department of Education present an opportunity to remedy this situation? Or will it lead to the confusion? It is too soon to tell. But we hope this Committee will play an active role in the structuring of the new Department of Education so that these concerns are addressed.

In addition, we want to join with the States and the parents who have come here seeking full funding of the federal share authorized by Public Law 94-142. The failure of the Administration to request and of the Congress to appropriate full funding can only serve to weaken the States' view of the federal commitment to handicapped children and slow the progress being made toward provision of appropriate services. This cannot be justified in the name of budget balancing. The education of handicapped children is at stake.

In conclusion, Mr. Chairman, there is a great deal of work to be done by the states and by BEH. We have seen the tremendous benefits to be reaped from such leadership and know the rewards are more than worth the efforts. Public Law 94-142 is a glorious promise to the nation's handicapped children. We call upon the Committee to exercise its oversight powers to transform this promise into a reality. We know it can be done. It does not take new legislation. It takes leadership and very specific administrative actions.

The Children's Defense Fund appreciates the opportunity to present its views to the Committee and stands ready to assist this Committee in any way.

CASE SUMMARY: MATTIE T. V. HOLLADAY, C.A. NO. DC-75-31-S (N.D. MISS.)

On February 22, 1979 United States District Judge Orma R. Smith approved a comprehensive consent decree settling the four-year-old Mississippi special education case, *Mattie T. v. Holladay*, Civil Action No. DC-75-31-S (N.D. Miss.). This case, on behalf of all school-aged children classified as handicapped in the state, challenges the failure of officials of the State Department of Education and seven local school districts to enforce the children's rights under Public Law 94-142, the federal Education for All Handicapped Children Act, 20 U.S.C. §§ 1401, et seq. The twenty-six named plaintiffs fall into two categories: (1) handicapped children who were either excluded from school entirely, inadequately served in segregated so-called "special" programs, or ignored in regular classes, and (2) nonhandicapped minority children who had been misclassified as mentally retarded and placed in inappropriate segregated "special education" classes.

The district court had ruled in July 1977 that the defendants had violated the children's federal rights and ordered submission of a comprehensive compliance plan. This consent decree reflects agreement on the terms of this plan and binds on the Annual Program Plan Mississippi has submitted to the federal government for funds under Public Law 94-142. The plaintiffs are represented by attorneys from the Children's Defense Fund.

This is the first comprehensive court order under Public Law 94-142 and it specifies the state's responsibilities for implementing the federal law. This suit was necessitated in part by the failure of the federal Bureau of Education for the Handicapped, the agency responsible for enforcing Public Law 94-142, to take strong action against non-complying states. It is now up to the federal agency to take the principles established in this case and enforce them throughout the country. Over 40,000 children are affected by this decree in Mississippi. There are nearly 4 million children covered by the law nationally.

The major components of the consent decree are:

1. *Least restrictive environment (mainstreaming)*

The decree establishes specific criteria for determining when a school district can place handicapped children in classes and buildings separate from the regular education environment. It also requires all state agencies administering institutions to develop specific plans with local school districts for placement of many institutionalized children into local district day programs and provides that placement in these non-institutional programs be part of the individualized educational plan (IEP). Moreover, the decree also establishes a system of surrogate parents to represent children in foster homes or institutions who do not have parents.

2. *Non-discriminatory testing*

The decree requires the state to hire outside experts to evaluate and reamp the entire state procedure for classifying and placing handicapped children. The experts' report, due this summer, is to be implemented by a change in state

<sup>1</sup> Public Law 94-142 is a major federal grant-in-aid program to the states providing nearly a billion dollars for special education programs for handicapped children. Along with the funds, the law requires that the states insure that all handicapped children are provided fundamental services and procedural rights.



policy and a state-wide two-year teacher training program. Because black children are disproportionately placed in classes for the mentally retarded and excluded from classes for the learning disabled, the decree establishes a specific goal for the state to cut this disparity at least in half within three years. Lastly, the decree sets a strict timetable for the individual evaluation placement process.

### 3. Compensatory education

Each local school district must identify all children misclassified as mentally retarded and provide them an opportunity for a compensatory educational program. Children under 15 are to receive tutoring and other services to get them on track for a diploma. Older children will have a choice between this academic assistance or a combined GED/vocational education program. This compensatory program is to be provided beyond the Mississippi school age of 21 years, if necessary.

### 4. Suspensions

To insure that handicapped children's problems are addressed programatically and not ignored, school districts are prohibited from removing children from school for longer than three days. Such three-day removals can occur only if the child's behavior represents an immediate physical danger to him, herself or others or constitutes a clear emergency within the school such that removal is essential. Serial three-day removals are prohibited. A three-day removal triggers a review of the child's educational program and services.

### 5. Complaint procedure

The decree establishes a state-wide mechanism for complaints of systematic problems.

### 6. State department of education monitoring and enforcement

The decree strengthens the state system of monitoring local school districts and other state agencies' compliance with federal law, including a requirement that the state interview parents of children served by the agency being monitored and specific timelines for state remedial action. The decree also requires the state to withhold federal funds from non-complying districts or agencies.

### 7. Procedural safeguards and child find

The decree improves present state practices by requiring the state and school districts to distribute to parents of all handicapped children in the state an agreed-upon Parents' Rights Booklet, to compile decisions of hearing officers and make them available to the public, and to conduct outreach to community groups (including Head-start programs) in conducting child find.

Mr. YONAHLEH. I would like to begin by emphasizing that the Children's Defense Fund report for Public Law 94-142, as it stands, the problems that exist are implementation problems. You have heard that from many different people today, and in the previous days of testimony, and we would like to join in that.

We applaud this committee's continued interest in and support for the act and we hope that it will exercise its oversight power to assist in improving certain implementation and administrative problems.

The Children's Defense Fund is a national, non-profit, public interest organization created in 1973 to address systematically the condition and needs of children in this country, particularly poor and minority children, as well as handicapped children.

CDF has gathered evidence and issued report on specific problems faced by large numbers of these children, including our 1974 nationwide survey, "Children Out of School in America," a study which documented the ways in which handicapped and other children are systematically denied an education by the Nation's public schools.

We began representing handicapped children before the enactment of Public Law 94-142, when de jure exclusion from all public education was still a common policy. Without a doubt, this legislation and



section 504 of the Rehabilitation Act of 1973 are the cornerstone of these children's educational rights.

CDF has prepared and distributed to thousands of parents, advocates, and lawyers throughout the United States an advocacy handbook describing the large requirements. As a result, we have received a great many calls for advice assistance from parents and advocates raising major concerns about State and local compliance with the law. This, in turn, led to help organize a coalition of national and State advocacy groups to monitor the implementation efforts of the State education agencies, and the Federal Bureau of Education for the Handicapped.

Last, through our own special education litigation, most notably against officials of the Mississippi State Department of Education in *Mattie T. v. Holladay*, we have gained an in-depth understanding of the real barriers to implementation of Public Law 94-142.

This broad and deep perspective brings us both good news and bad news. The good news first: Large numbers of handicapped children who were previously unserved or out of school entirely are now being provided appropriate educational programs.

When implemented properly, it is clear to us that the law's comprehensive approach, which includes a free, appropriate education, IEP, procedural safeguards, protections in evaluation, and placement in the least restrictive environment, has achieved many of the results Congress intended, and Public Law 94-142 has meant a new chance for many handicapped children.

But the picture is unfortunately not entirely rosy. Parents throughout the country are still encountering significant compliance problems. Some of the most prevalent and serious are:

(1) Misclassification of poor and minority children as mentally retarded. Because of inappropriate referral and evaluation procedures, black children throughout this country, and Hispanic children, are being classified as mentally retarded inappropriately at a rate three times that of white children. They are classified as learning disabled at a rate only one-third that of white children.

(2) Children are being denied essential educational services because of impermissibly narrow definitions of related services and a continuing lack of clarity among State and local agencies about the service delivery and funding responsibilities for these services.

Mr. Chairman, you have heard a great deal today from the State education agencies about this problem of related services. Their answer is to narrow it down solely to those educational services which the school district can provide directly itself. But the legislative history of the act demonstrates the Congress's desire to lodge clear responsibility in a single agency, the educational agency, for provision or arrangement of a broad array of related services necessary for the child to participate in an educational program. The Congress did this to end the bickering among agencies, and consequent denial of services about which it heard so much testimony.

During the many days of testimony in 1973, 1974, and 1975, prior to the passage of this act, Mr. Chairman, this committee heard many examples of children who fell through the cracks because of the endless fighting between agencies who had turf problems, who were trying to save their funds.

Congress, fully aware of that, decided to lodge responsibility in the local educational agencies as the coordinator of services for handicapped children. This is because the Congress recognized that handicapped children need services from many agencies, and without a coordinator, they will not get them.

It was with this intention that the Congress required that the educational agencies provide or arrange for related services. Thus, it is crucial that local educational agencies and the State educational agencies form cooperative agreements with the other agencies, and coordinate their provision of services through the educational system in each locale.

(3) The least restrictive environment requirements are not being enforced properly. Some children are still being placed inappropriately in segregated settings, and others are being dumped inappropriately in regular settings without necessary support services and assistance from beleaguered teachers.

This practice has given mainstreaming a bad name. School districts have learned that they can put these children in regular settings with minimal services, and count them for special educational funding. This is not what the least restrictive environment was meant to mean.

(4) Children in foster care and institutions are still falling through the cracks and being denied the protection of 94-142 because of inadequate interagency agreement and followup, and the absence of sufficient surrogate parent programs. Many children in institutions, consequently, are not being provided appropriate programs, IEP's, or due process.

Surrogate parents are essential for these children to have an advocate in the procedure which 94-142 sets forth, and it's the procedures that are the backbone of this law. Without surrogate parents, these children's rights cannot be enforced. The fact is that there are virtually no surrogate parent programs that are statewide throughout the United States.

(5) Children living at home are not receiving appropriate educational programs because many school districts do not recognize parents as partners in the IEP process. You have heard testimony today about the fact that parents are becoming adversaries to the school districts. This is not happening by accident, Mr. Chairman. It is not happening because parents want to become adversaries. It is happening, unfortunately, because in many school districts the school personnel are not treating the parents as the equals which the law gives them the right to be.

Instead, predetermined and canned IEP's are, in fact, being forced on parents in pro forma IEP meetings. Parent after parent testified in hearings during July before the Senate Subcommittee on the Handicapped about the difficulty they are having participating in the meetings and influencing the content of their child's IEP.

These problems stem from the fact that the BEH and some State educational agencies have been slow to do four things crucial to implementation of 94-142.

(1) Develop clear policies in all areas necessary to implement the law;

(2) Launch extensive monitoring efforts so that they are aware of the status of compliance throughout each State;

(3) Provide sufficient technical assistance to bring school districts and other agencies along; and

(4) Apply sanctions when necessary to force implementation.

In order to carry out these duties, the State agencies need better leadership and assistance from BEH than that Federal agency is presently providing. For example, policy decisions clarifying the meaning of a number of Federal regulations need to be developed, guidance on how to effectively monitor local programs must be provided, and a strong mandate for training parents and teachers must be articulated.

Is it hopeless? Is Public Law 94-142 condemned to be more of a promise than a reality? We do not think so.

In the *Mattie T.* case mentioned earlier, we won a major victory on behalf of the class of all handicapped children in the State of Mississippi. Under the pressure of this lawsuit, a great many changes have taken place in that State. The State department of education there has now begun to assume its proper role in the State as the implementor of Public Law 94-142.

We disagree strongly with the testimony of the preceding witness, Mr. Chairman, when that person suggests that the State agencies must not be legal enforcers of the law; but merely providers of technical assistance. They must be both because the law clearly states, and the Congress has decided that the State education agencies are responsible legally to insure that the educational rights are provided throughout the State.

If it is not done by the State agencies, it is not going to be done at all, because we concede that the Federal Government is not capable of playing that role throughout the United States.

By issuing clear policies, monitoring State and local agencies, and guiding and pressuring sometimes the local agencies into compliance, Mississippi is already serving many more handicapped children, and moving them out of segregated settings than prior to this litigation. But it took a great deal of effort in this case to move the State.

Public Law 94-142 should not be enforced through litigation. As a practical matter also, there simply are not sufficient resources in our organization, or for that matter in the public interest sector, to bring the same kind of legal action against each State educational agency, and we don't think that it should be done that way. An active Federal role would obviate this problem.

BEH must greatly accelerate its transformation from a relatively passive grant-giving agency, into a forceful compliance agency, with all the tools necessary to fulfill Congress' mandate under 94-142. BEH must develop the ability and the will to deliver clear policy messages; determine the status of actual, not just paper compliance; and mix technical assistance with enforcement to move recalcitrant State bureaucracies.

This requires a combination of creativity, focus, and staffing. BEH presently has only 14 professionals who are responsible for Public Law 94-142 compliance for the entire 50 States and the territories. Further, BEH has shown a reluctance to take strong steps to implement 94-142.

For example, faced with clear evidence in almost every State of the lack of real parental involvement in the IEP and due process system, especially for poor and minority parents, BEH has not required any of the States to expend their discretionary funds on critical parent and parent-advocate training.

The statistics on hearings, for example, throughout the United States demonstrate an infinitesimally small number of minority parents are exercising their procedural rights under this act.

As another example, despite confusion in the States about the definition and scope of related services under the act, BEH still has issued no policy clarification. Further, as Dr. Cronin from Illinois testified earlier today, BEH must help insure coordination among Federal programs, so services are made available to the public schools from the variety of Federal programs which must plug into 94-142.

Last, BEH's own monitoring often fails to focus on the real special education picture in the States because of its preoccupation with form. Each of these problems can and must be solved.

We want to join with the States and the parents who have come here seeking full funding of the Federal share authorized by Public Law 94-142. The failure of the administration to request and of Congress to appropriate full funding, as stated earlier today eloquently by Dr. Cronin, can only serve to weaken the States' view of the Federal commitment to handicapped children, and slow the progress being made toward provision of appropriate services.

This cannot be justified in the name of budget balancing. The education of handicapped children is at stake. We do not believe that the failure to fund the program fully necessitates the withdrawal of any of the requirements, because, in fact, they are based on other legal foundations, such as the Constitution, or section 504 of the Rehabilitation Act. In fact, we believe that Federal funding of this program is a generous assistance to the States, but not a precondition for provision of educational services to handicapped children.

We do think that failure to fund the program fully raises questions about the Federal Government's commitment to this issue, which, in turn, creates some doubt in the States.

In conclusion, Mr. Chairman, there is a great deal of work to be done by the States and by BEH. We have seen the tremendous benefits to be reaped from such leadership, and, know the rewards are worth a great deal more than the efforts.

Public Law 94-142 is a glorious promise to the Nation's handicapped children, and we call upon this committee to exercise its oversight powers to transform this promise into a reality. It takes leadership and very specific administrative actions, and we hope that this committee will take up the call and put many demands on the Bureau of Education for the Handicapped to come forward with specific proposals for increased staff, for increased commitment to clarifying policies, and for monitoring Federal agencies.

The Children's Defense Fund appreciates the opportunity to present its views to this committee, and stands ready to assist this committee in any way.

Thank you, Mr. Chairman.

Mr. STACK. Thank you, sir.

We are going to have to suspend shortly, because we have to go and vote.

I did want to ask you one question with regard to the matter of economic and racial status of parents pursuing administrative remedies. We had heard in previous testimony that most of the adverse procedures are being raised by parents who might be of higher economic status.

Do you have, for inclusion in the record, data that could be used to reinforce your stated position?

Mr. YOHALEM. There have been studies particularly about the Massachusetts and Pennsylvania due process procedures, and we will endeavor to provide that to the committee.

Mr. STACK. I would like to have that for inclusion in the record.

I will have to go and vote, but in the meantime if we could go ahead with Mr. Borrelli, and Mr. Husk, who form the next panel, and begin to take their testimony.

Mr. Yohalem. I want to tell you that I found your testimony very stimulating, and very informative. I will read it very carefully, and reflect on your remarks. You made some very sound points that we need to address. Thank you.

If the next panel would come forward, Mr. Matthew Borrelli, who is the director of pupil services, West Hartford, Conn., public schools, and Mr. Samuel B. Husk, who is executive vice president of the Council of Great City Schools.

Mr. Borrelli, would you care to go first?

**STATEMENT OF MATTHEW BORRELLI, DIRECTOR OF PUPIL SERVICES, WEST HARTFORD, CONN., PUBLIC SCHOOLS**

Mr. BORRELLI. Thank you very much for your invitation to come here.

I want to express a little bit of unhappiness that the Congressmen themselves are not here, but I am not disheartened because I realize that they have a busy schedule, and also that the executive aides probably control as much power as anybody else does around here.

Mr. BIRCH. I share your disappointment that they are not here, but we have these votes coming up.

Mr. BORRELLI. I realize that.

I am especially sad because I think that many of the comments made today are not true in Connecticut, and I would have liked to be here to have heard personally a very different perspective as far as hearings.

The local joke in Connecticut is that your waitress is probably a certified special education teacher who cannot be employed. That is true. We have cut back on our programs because there is more quantity than demand at this point, and that seems to be very different from the picture as presented here today.

So be it with the preface.

When I was asked to come, I looked at everything I read, reread it, spoke to as many people as I could from cities. Connecticut is a small place. I think it is a very good communication center because it is not densely populated like a city, where there are so many voices speak-



ing that you cannot hear. It is not so spread out, although everybody has the same label as coming from one State, they really are in such conditions that sometimes there is no such thing as a consensus.

Connecticut has a very finely tuned communications system. It is small enough to be intimate, and it is large enough to be diverse in its opinions. It allows a person like me, on a director's level, to get to know the Governor, the commissioners, the other directors, and many people on a close basis.

When I went out and I did my questioning, I came up with very interesting responses. I thought that people would be able to come out and say, book, chapter, and verse, this is what is wrong. Let's make this change in the world and become perfect. It did not happen.

They were basically satisfied with the goals. They had minor hitches about some of the areas, and I will get into that later, especially in hearings, but it was more feeling-level types of things.

The paperwork was there, a little bit beyond. I think what one would have expected from the bureaucratic system anyway. Meetings seem to have increased. Parents seem to be walking about very dissatisfied, even in places where they are really producing good services.

Discussions about rights of nonhandicapped children are coming up left and right.

One of the things that came through on the teacher, and even on the administrative level was "I don't feel like a public servant, a teacher, or administrator anymore. I feel like a clerk and a bureaucrat."

I went back, and I really searched, and I said: "There must be something in the law, something specific that is turning people out like this." It was not there, it really was not there.

I went out, then, and said: "OK, for all the grief, our kids are getting more service. Handicapped kids are getting more service." The answer is, "No." We are working harder, producing more paper. In fact, and I am speaking from Connecticut's, and really from West Hartford's point of view very specifically, we are not. We are documenting it much better. It has a neater package. We are spending literally thousands of dollars on carbonized forms that we were not before, but basically, when we look at what 94-142 is calling for on the IEP, and when we look at our own programs, they are not tremendously different.

One thing that we have to bring into context is that West Hartford is a town that spends \$25 million a year on less than 9,000 kids. It spends almost \$3 million on its special education budget. But I am talking to people who are outside of West Hartford's range of competence, and the services are not greater. The only exception was in the related services area, and that was mostly OT and PT. Even in West Hartford, we are spending \$19,000 this year, where in 1977 we did not spend anything on OT and PT.

The students were getting services, by the way, through Easter Seals, and through other organizations. We are now simply picking up the costs for those services. I have a feeling that maybe insurance companies may be making a deal on us.

Again, what is sort of happening here, when we started testing the flavor of the parents' comments, and mixing that with professional comments, again more time clerically by professionals, more discus-

sions about the law and technicalities about the law from parents, which ultimately did not result in program changes, but in a sense, it was their law and they were going to talk to us about their law.

The process seems to be contributing to a split between handicapped and nonhandicapped. I came from New York City into Connecticut in 1968, and in the last 2 or 3 years is the first time I have heard professionals really deal strongly with, "what about the other guys?"

Two semesters ago at Central Connecticut State College, I taught two courses in mainstreaming of the secondary handicapped child. I had an opportunity to be very intimate with 60 secondary teachers from across the State in 16 weeks. It was amazing the feelings they had about the regular child being a little less equal, confusion about the fact that the preamble to the law that this is an equal rights type of law.

One of the problems, when you come to us with special educational needs, you use the word "must." When we come with a legitimate need in regular education, the question is budget based. That is not equal, and that is what they are saying to us.

I think that it is starting, and I don't think we are there, and I am not raising any alarm bell to say that the world is splitting apart, but I do see a direction, and I do see that we might have some solutions so that it does not go much further than it has.

It is interesting to note that the gentleman presenting just before me, I agree with fully, is claiming that this is a rich person's law. The whole legal setup is a very white, middle-class approach to problem-solving.

In West Hartford, with the figures that I gave you before, we had nine hearings last year, in a town that has an array of services that is unbelievable. We also have a population—

Let me give you an example. We won eight of those—it is interesting that I am using the word "won." In the report I use the term "we were sustained." The one we lost, we should not have. I would have bet \$100 to \$1 that we would not have. The fact is, what it really comes down to is that so many of these are full payment versus education cost only. Why not invest \$1,000 in a lawyer to possibly win a \$5,000 difference in tuition payment.

More and more discussions with parents are getting into their level of satisfaction. I know in my case, and in the case of many of my colleagues, satisfaction is not always data based. In fact, it is going away from data base into demand base. The law says: "You must." The fact, the parents do have a lot of that feeling, and it is a good feeling to have in its proper perspective along the continuum. My indication seems to be that we are moving to the point that "if we want it, we will get it."

A system like West Hartford, with all of its capacities, with the pride that it has in its system, can say to a parent: "Go to a hearing because we disagree with you." Other systems, either are afraid to do that because they cannot afford the legal help, or in many cases, then justifiably by the parent, capitulate because they don't have a program.

So I think that it is appropriate, but I am afraid that it is moving along the continuum, and I am willing to say at this point that maybe that it is the pendulum swing, and I am hoping that we will get back

to the middle some place, where instead of advocacy needs for parents, and legal help needed for schools, we have a coalescence of energies, and we have the child as the focus point, and not the law, not the system, not the advocacy group, or the group, but the child.

The cities do not hold hearings. We are West Hartford, and the borderline is Hartford. I was an administrator in Hartford 9 years ago, and they don't hold hearings. They are not demanded. I think we need some real information and advocacy there, plus I think we are going to have to develop a system that does not require money, because right now the hearing process as we have it requires dollars.

Yes, I know that we have legal advocacy and community advocacy out there, but it takes a lot of money to fund that. It takes a mentality to go to that. When you are surviving day by day, and worrying about bread, and clothes, and heat, you don't have the mentality to go to a local community legal services agency and say: "I would like to discuss my kid's IEP." It does not happen that way.

So, again, I think we have a very rich person's approach to problem solving in the law.

The whole idea of advocacy groups. I think, is just not coordinated. I received six calls already from a local advocacy group. All were handled with one phone call to the parent. None had to go and involve an agency.

In fact, yesterday, I sat diagonally across from two advocates. I spent an hour on the phone with one of these ladies, explaining what had happened. She spent an hour-and-a-half with the parents a couple of weeks before. I called the parent, but somehow she still ended up at the meeting. I assumed that since she was there, we still had a problem. I said, "I guess, one of John's teachers did so and so." The parent said: "No, we don't have that problem. It has been solved." It had tied up two people.

The interesting thing I brought out to them, I said: "Do you have a way to reject something that does not seem to be a problem?" The answer was, no. That is interesting, because we can't walk into any local precinct, and we cannot walk into a court of law, and say: "I want to charge this person." Somebody says that there has to be due cause. We don't have due cause, or at least not sufficient amounts.

I tried to get a finger on what is causing this parent unrest, because we went through an interesting situation in Connecticut. We passed our law in 1968, so we have been operating many years before 94-142 was even dreamed of.

In 1968, 1969, and 1970, and even close to 1971, we went through a lot of upheaval, and a lot of parent unrest. By 1972, we really started working with the parents, they working with us, hearings went down, and the "Parent Power" buttons went into the pockets because people in Connecticut felt that they were getting a reasonable deal.

That existed even up to 1977, when the law first came out. In 1978, throughout Connecticut, hearings have gone crazy. We are trying to figure out, why now are people so dissatisfied with something that for the last 5 years they have been satisfied with.

In Connecticut, at least, if I were to rip off the cover and show you 1976, our Connecticut State statute, and 94-142, except for some minor changes, the process, the guts are the same. Yet, there is a dissatisfac-

tion now. I was trying to get a picture of why dissatisfaction now, because it was not in the words themselves, but it was somewhere in the background music.

So I did a little sociological and historical research, and I took a look at the times, the era in which the discussions of this law started taking place. It was an era—in 1974, we had a very bad economic time in this country. We also had institutional distrust. You had the beginnings of Watergate through the mid-1970's. The law was produced with these genetics. Basically, from what I can discern, certain presumptions were in effect when the law was being written.

One, that handicapped children universally were not getting equal treatment. I would agree that a whole range of nonservice to full service existed.

The second assumption was that the State and local agencies were not fulfilling their responsibilities, again with the universal element added on to it, that dollars were not being spent, that parents' recourse was the Federal Government, not local, not State, and, in fact, given the information pouring into the Federal Government, the Federal Government believed what I just said.

The question then arose, does the Federal Government believe that public schools do not care, and that the Federal Government will have to make them responsible, in order for them to fulfill their responsibilities.

I guess my question is, do the Senators believe that special education began in Washington, because it did not. It began in 1968 in Connecticut, and in more than half the States in this country it began before 1975.

The support we are getting, look, I will tell you. You want to give us more money, that is fine, we can use it. I don't think that that is the problem. I don't think that Connecticut would go under.

For this year's budget, we are projecting over \$3 million on special education. We will net about \$90,000 of flow-through moneys. It is a nice figure, and I am not giving it back, but I am saying to you that it is not the basis for the program. It allows us to take care of some of the nuances that 94-142 has built into it that 1076 did not. But Connecticut is committed, and West Hartford is committed to special education, and so are many other States, previous to, and during 94-142.

One of the awarenesses that I would like to bring to the group is that there is a tremendous sense in our State that the BEH, and the Federal Government are watchdogs. They are not supportive. They are not here to help us discover what our profile is, plus and minus.

We understand that if we are recalcitrant, if we just tell people where to go, and try to ignore the law, either State or Federal, there should be teeth built into the law, and there should be punishment, but this should be after a long period of attempts to bring units into compliance through a system, and not through report card filings.

We have had nine hearings in West Hartford, and I want to contrast something for you. HEW is in town, and we are receiving an onsite visit. The timing was just there, and I was in the middle of preparing this. I got a phone call from the State Department, and we were told at that point that we were going to be visited onsite.

When I asked, why the selection of West Hartford, with 160 towns, the answer was—these are my words, not theirs, but I believe that they are theirs—West Hartford had nine hearings. What is wrong with West Hartford? That was the Federal perspective.

The State perspective, in talking to hearing officers at a meeting we had, was that in their opinion, the towns that were going to hearings were the towns that had programs. They were, in fact, the better towns because, No. 1, they could defend their process; 2, they could offer the program; and, 3, they could display that what they were doing was valid. The towns that were not going to hearings were towns that could not defend their position.

So the contrast is that from the Federal perspective, at least by that Federal perspective, doing [redacted] job was questioned. From the State perspective, it was commendable. I think that that is an aura, and I want to limit it just to that, because I don't want to make these go too broad, because they will not survive a very broad scope.

But it is there that, in effect, the feelings that are sensed by people I know, and people that tap other people, are that the law itself is legitimate. It is a law that I think most reasonable educators and parents would develop on the Moon, separate from what we already know. It involved people. It is a group process orientation. It says that you have to have data. It says that you have to have programs. You need to train people. You need to write down a reasonable array of what you are going to do, and how you are going to do it and when. Nobody is going to argue with that.

It is obvious that any process document can be strained to any limit, and benefit a few people. I am indicating today that I think the educated, the rich people, the process is built in for them. It is more mutual with their lifestyle. It is more mutual with their financial style. It, in effect, is the kind of thinking that middle- and upper-middle-class people use. It is not the kind of thinking that low socioeconomic groups deal with, at least not at this time in history.

What I am concerned about is what became apparent to me, the law is really at this point in time, in Connecticut, considered more of a parent than a child law. More parents are receiving satisfaction than children are receiving services.

The law has a demeaning element in it, that is, the Federal Government established special education. Public Law 94-142 is special education. I know that it was nobody's intent, but it seems to be a byproduct feeling that the Federal Government is watchdog in its administration. It is not helping people to get the job done. It is recording whether they did or not.

There is an attempt here not only to legislate the process, but morality. I think we try to enforce morality. I try to drive at 55, but I get forced into the right lane.

The implications to parents, at least, from what I can perceive, is to use this against the schools, and not to work with the schools. It has a concurrence and a reinforcement factor of distrust of institutions.

It is being used, I think, not consciously, but it is being used to keep handicapped people separate. It has a separatist approach in its funding, and in its preference, and in its priorities. It does not seem



that we have yet attained the sophistication to incorporate it, but rather to use it as a parallel process.

Mr. SIMON: If I may interrupt you, Mr. Borrelli. When you say separatist, are you talking about the funding, or are you talking about how it impacts in West Hartford?

Mr. BORRELLI: Its impact on the schools, the parents of handicapped and nonhandicapped.

Earlier in my testimony I said that in 10 years in West Hartford, I had not heard statements from parents, and statements from administrators, from teachers, and even from kids, "What happens to the regular kids? Special education works upon demand, and regular education works upon budget availability."

The schools right now seem to be in the position of being under the gun, or guilty until proven innocent.

I am hoping that we can do something about the packaging, because I think the products OK.

I am obviously coming from three bases here. One, I think we have got some facts for this. We are deducing. We are pulling out of some data. The third element is perceptions. I am asking you at this point not to separate the three, but to deal with the three as impacting factors. Maybe some of them should impact, and maybe some of them should not, maybe some less, and maybe some more. But the fact is that these are factors that I have perceived are impacting—whether they are true or not, they are impacting elements.

I would submit to you that given the economy, the political distrust, there is always a need for scapegoats during times like that. School systems, institutions are always available for that. Public schools in general have a very low proclivity to fight back. They usually sustain, and hope that history and time will bear them out.

I am glad to be here and be able to talk to legislators, but the fact is, would you please help us, because sometimes we don't help ourselves as much as we should.

I think that it is a fault on our part that we don't inform parents about what we are doing enough. We only react to charges. I think to learn, maybe go to Madison Avenue and get some good public relations before we need it.

I think that we have to take a look at the whole concept of management services from the Federal level, because we have got BEH, we have got OCR, and now we have the State level advocacy. We are spending a tremendous amount of time in West Hartford. Two of the cases that we were sustained on, one of the cases went to superior court, and we were still sustained. We are now in Boston with OCR redoing the whole process. If that person does not get satisfaction from OCR, he can go to our State advocacy office, and we will have to answer every single question again.

There needs to be some massive coordinating going on, because it is coming out of the time of other handicapped children and out of other children. It is just not coming out of the air. When you talk about a hearing, you have to start clocking in \$4,000 to \$5,000 of professional time. I don't know about the outcome, because the outcome is antagonism.

We create an advocacy system that just creates winners and losers. Anybody who wants to claim that everybody sticks just to issues, and nobody gets personally involved, I would like to have a public discussion with them, because parents are involved. You are affecting their pocketbook in many cases, and you are affecting their emotions.

When the school system "wins," how do you send your child to a system that has beaten you, cost you money, and says: "Enjoy your schooling."

I think that we have to be careful about equality, and not becoming more equal. I really believe that the law is very important, and very positive, and has brought this point across. It was interesting to note in many places how much special education has occurred since 1977, where they have doubled and tripled the services. I think that it is the main thing, and I think that it is beautiful. I am sorry that you had to do it, that we the States, the education agencies did not do it. But I think that we have to look also, although you have to write legislation that is universal, there has got to be something that allows for the fact that different places did it at different times and on different bases.

I would like to see somehow that it become public knowledge that the goal of the law, the goal of BEH is to help, not charge with malfeasance those States and districts not able to comply. I think that has got to be the goal, the public relations of the Federal Government. "We are not here to put these people out of business. We are here to help them." There is a given behind that statement that "if you don't, there will be penalties." But I think that the whole outreach has to be a positive one. It has to be supported.

I would like to recommend the following things:

(1) That the Federal Government take on the public relations responsibility of revalidating the public schools, because even where that good is coming by, the public schools are not being credited. Is the Federal Government making the schools do their job? To be sure, there is an element in that, but they are on the firing line every day. They are doing it. They are taking the law, and in many cases, really embellishing it. I think the public schools around this country need to be validated, and the Federal Government should participate in that.

(2) That the thrust of their information deal with process and law, and I think take parents somewhat away from the line they are taking about demand, and their value systems. I think that value system is a very good result to legislate. I think that what is right and wrong should come out of a process, not trying to set up what is a good program, what is a bad program, through law. We say that values and satisfaction debates not be the purview of hearings, but more discussion between schools and parents.

The Federal publications, I took a closer look, and I am not criticizing them. I think they do a fantastic job. But you really have to look hard to see "Go see your local school district." They say: "Call Washington." I would wonder, if I were a parent, why shouldn't I call my principal, or my director, my superintendent, my State. Why do I call Washington? I think you have to say that there is a chain of command, and you are the ultimate, but maybe there ought to be a sequence to get to you.

I think that we need a total Federal unit to incorporate many of the Federal laws that are going for the handicapped and for education in general, because I think if we start funding, and start thinking, and start legislating regular education acts, and special education acts, in the long run you are going to have two systems, not one. Then, the goals will be contrary. I think that this is one problem that we are having.

I think through some means of communication that we all understand that we are on the same team; that LEA's, States, and the Federal Government start to think as a total unit, because I think we are thinking as three units. In Connecticut, the LEA's and the State have moved very close. I know that the feeling of my colleagues is that: "Who are the Federal Government?" We would like to see you, and we would like you to see us. I want to express my appreciation for being here, that somebody from an LEA can get to the Federal level, as simple as it is.

I think that the hearing process needs to be looked at only in one thing. I think that it is a legal aspect implanted in an educational scheme. I think that it requires that educators make legal judgments; they are not qualified to make, and lawyers make educational judgments that they are not qualified to make. I think there are other alternatives that can better meet the needs of students, and all students, the special students, in settings where the legal aspects are not held in high esteem.

Thank you for inviting me here. It was really a hard thing to put together because when you look at the law, you look at stars and planets. When you start to figure out how it can be made better, you end up talking about space.

Mr. SIMON. Thank you.

We will hear now from Mr. Samuel B. Husk, executive vice president, Council of Great City Schools. We will be happy to enter your statement in the record, if you wish to summarize it. You may proceed as you wish.

**STATEMENT OF SAMUEL B. HUSK, EXECUTIVE VICE PRESIDENT,  
COUNCIL OF GREAT CITY SCHOOLS**

Mr. HUSK. Thank you, Mr. Chairman. I would like to enter the statement for the record.

Mr. SIMON. It will be entered in the record at this point.  
[Prepared statement of Samuel B. Husk follows:]

**PREPARED STATEMENT OF SAMUEL B. HUSK, EXECUTIVE VICE PRESIDENT,  
COUNCIL OF GREAT CITY SCHOOLS**

The Council of the Great City Schools is pleased to take this opportunity before the House Subcommittee on Select Education to comment on one of this Nation's most innovative and far-reaching mandates, the Education of All Handicapped Act. As the Chairman knows, the Council is an organization comprised of 28 of the largest urban school districts in the country. On its Board sit the Superintendent and one Board of Education member from each district, making the Council the only National organization so constituted and the only education association whose membership is solely urban.

Currently in its 23d year, the Council and its member districts serve nearly 5 million young people, 80 percent of whom are below nationally-set poverty

Limits of 75 percent are from one racial or ethnic minority group or another. In addition, the Council's school districts serve nearly 500,000 handicapped children each day, more such children than served by 20 states combined. Over the last two decades the Council has grown from 10 cities in the Northeast to its present twenty-eight located in every region of the country. The straight forward goal of the Council remains the improvement of education in the large cities.

Since 1975 when Public Law 94-142 was signed into law, the Council has conducted a Special Education Technical Assistance program designed to improve the education of handicapped children and has conducted an annual survey of big city special education needs since 1972. In fact, Special Education Administrators from the city schools have met regularly under Council auspices since 1971 and played a key role in advocating the passage of the Education of All Handicapped Act.

With the Chairman's permission, our testimony today will focus on seven aspects of Public Law 94-142 that warrant special attention from the vantage point of the city schools.

#### A. FEDERAL FUNDING OF PUBLIC LAW 94-142

By now the Chairman has heard many testify in favor of increased appropriations for Public Law 94-142. We would like to reiterate that message but would first like to thank the Chairman for his considerable efforts earlier this year to press for a budget ceiling high enough to accommodate the federal funding of Public Law 94-142 at the 15 percent of excess cost level. The funding of this program is of particular importance to the urban districts. As the Chairman knows, the federal government committed itself to assuming a greater share of the excess costs in meeting the demands of Public Law 94-142—going from 5 percent in 1977 to 40 percent in 1981 and thereafter. The program was underfunded in fiscal year 1979 at 12 percent however, instead of the 20 promised and was maintained at that level for fiscal year 1980.

The Council is particularly concerned about this shortfall in federal commitment, not only because the mandates of the law have outstripped the resources available to meet them, but because of simple economics. The first point is one that the urban schools have in common with other kinds of districts. The second, however, is more troublesome for the city systems because of the large numbers of handicapped children and the greater than average excess costs associated with educating them. Our best estimate is that between 11 and 12 percent of the children in our 28 districts can be classified as handicapped. This stands in contrast with the Office of Education's estimate of 9 percent nationally. One of the reasons for this higher proportion of handicapped youth involves the quality of our programs. Their well-deserved reputations have drawn parents to send their handicapped children to the public schools when they might not have done so otherwise. It is also less likely that the urban schools would have to send their students to an out-of-district facility, since their programs are more broadly based and better staffed. What is evident, however, is that when an out-of-district or residential placement is required it tends to be more expensive in the cities because of the extreme nature of the handicap.

In addition to the higher than usual proportions of handicapped youth in our districts, the costs of educating them run to about 2.2 to 2.3 times that of educating the non-handicapped youth. Estimates from other surveys have put the average National cost of educating the handicapped at 2 times that of his non-handicapped cohort. Compounding this difference in excess cost rates involves that of the National average per pupil expenditure factor written into the present law. NCES estimates that this factor will be about \$1,820 per child this school year.

The cost of educating the average child, however, in the Council's member districts will top \$2,200. The significance of the excess cost rate difference and the difference in per pupil spending rests in the funding that the cities and their states will have to make up from their own pockets. For example, the Nationally average district (with APPE at \$1,820 and cost rate at 2.0/1) will have to find about \$1,600 in handicapped funding from state sources, after being reimbursed only \$220 from the federal government and supplying \$1,820 from its own general revenues. The urban district, on the other hand, (with APPE at \$2,200 and cost rate at 2.2/1) will have to find \$2,422 from the state, after the same \$220

federal reimbursement—despite a higher initial investment from its own revenues.

A double bind has been created for the cities. One, they are reimbursed for excess costs as if those costs were identical to the National average; and two, they are being squeezed tighter by a state reluctance to spend additional dollars that can be likened only to that of the federal government. What has not been restrained, however, are the expectations of parents and handicapped children for quality services.

A final point on cost. Because of the slowness with which the federal government has responded to its own mandate, school districts must compensate with locally-derived funds. Efforts to cut local property taxes or reduce revenue-raising powers have resulted in many districts having to divert funds from their general educational programs to those for the handicapped, to avoid suit. The continued displacement of funds puts parents of the handicapped and those of the non-handicapped on a collision course over whose children have greater educational priority.

#### B. INDIVIDUALIZED EDUCATION PLANS (IEP's)

One of the more controversial sections of Public Law 94-142 involves the development of Individualized Education Plans (IEP's) for each handicapped student. Each IEP is to be developed collaboratively with teachers, parents and diagnosticians and must specify the student's educational performance, short-term objectives, annual goals and expected duration of services. In general, the Council feels that the intent of this stipulation makes good educational sense. All of our districts are moving to more individualized approaches to instruction.

Problems have arisen, however, when the particulars of the mandate are interpreted more broadly to include minute details of the child's development and of the teaching process. The lack of clarity in the law on the plans as a guideline and not a binding contract between school and parent, has caused considerable difficulty, especially since local courts have tended to decide in favor of parents wanting greater specificity. The result has been a large amount of paperwork, involving great numbers of people—all at the cost of actual program time for both handicapped and nonhandicapped students. Our best estimate is that the planning and development of IEP's in the Council's member districts runs to about \$37.5m per year. In addition, the 30 day deadline for the designing of IEP's—existing in current law—is far too restrictive and does not always make good educational sense. Instead, a 60 day time limit with at least 30 of it being after the child begins instruction would provide greater flexibility and would result in plans that were more child specific.

The Committee should also be aware of another potential problem for IEP's: the movement to develop minimal competency tests. These tests are being mandated in many states, already. 26 of the Council's 28 member districts have minimal competency exams in operation or on the drawing boards. Most of the tests are being developed to improve accountability and their passage being made a requirement for high school graduation. The potential difficulty lies in how handicapped youngsters will be treated vis a vis these exams. About half of our districts are now going through the very expensive process of translating their minimal competency tests into Braille and large print editions. In cases where the child is not able to handle these translations or is unable to take an individually administered competency test, the IEP is becoming the standard for graduation. However, the courts are now challenging this practice on the grounds that a diploma based solely upon the completion of one IEP is not sufficient. We bring this to the attention of the Committee because two good ideas, the IEP and the minimal competency exam, are now in the first throes of very difficult battle and should not be allowed to destroy one another.

Again, much of the difficulty with this and other sections of the Act rest not so much with the law itself but with its interpretation. Because of its broad wording, it is possible to read any number of meanings into its language. Until recently, the Bureau of Education for the Handicapped (BEH) only exacerbated the problem by sending out conflicting interpretations. We are pleased that BEH is now planning a series of policy papers on IEP's and other aspects of the law. We would hope that this Committee would be involved in the review of these policy statements. In addition, it might be beneficial to have BEH publish a monograph on cost-effective and innovative ways of designing IEP's.



## C. MANAGEMENT AND PERSONNEL NEEDS

One of the central problems for the urban districts raised by the implementation of Public Law 94-142 is that of finding personnel to operate the programs. The Office of Education has estimated that universities are now graduating about 20,000 special educators each year, despite the need for up to 85,000 such teachers over the next two years. This shortfall has hit the urban schools particularly hard due to the size and diversity of our programs. Teachers specifically trained to work with low-incidence handicaps are in particularly short supply. Because the supply of these teachers now lags about five years behind demand, the urban schools are placing greater emphasis on retraining and in-service training for general and special educators. There continues to be an enormous need, however, to provide training for teachers, administrators and local policy-makers not directly involved with handicapped children. A great deal of puzzlement amongst local administrators exists over the particulars of building modification, assessment procedures, IEP's and the like.

Since 1972 the Council has conducted a survey of its special educators on their training needs. Consistently mentioned from one year to the next is their need for greater information and training in the areas of: personnel management, Individualized Education Plans (IEP's), handling of private school youngsters, least restrictive alternatives, procedural safeguards and confidentiality. Though little direct evidence, our feeling is that many parents are as baffled by the law as teachers and would find some training useful. At present, however, the personnel development section of Public Law 94-142 continues to be poorly funded, and was in fact cut in fiscal year 1980 from its fiscal year 1979 level. Although these funds are not the only mechanism for training special educators, the Committee should know that in some instances the law is not being as effectively implemented as one might like simply due to the shortage of trained people and that such training is a lengthy process.

## D. NON-PUBLIC SCHOOLS

The major issue for the urban schools surrounding the placement and servicing of children in private school facilities is one of cost. Under the current wording of Public Law 94-142, public schools are responsible for paying the program costs for handicapped youth being served in private schools when the LEA's cannot offer the appropriate service themselves. The costs as a percent of the total LEA program is usually smaller in urban schools because of simple economies of scale, but the costs per individual placed are almost always higher. In fact, placement costs have run as high as \$75,000 per child per year. Our concern here is not that the youngsters are not worthy of services, but that under current interpretations of the rules and regulations there is no control over how much a private facility can recover from the LEA's for the education of a single child. We hesitate to recommend a spending cap per child because of its administrative and humanitarian problems, but clearly some action is needed.

Cost, however, is not the only issue relating to non-public schools. A more serious problem of institutional responsibility remains. Despite the LEA's having to invest tax money in the education of some private-school handicapped children, the public schools have no say in how that education is conducted nor even what is contained in the student's IEP. The result is one agency committing the funds of a second with little to no accountability. We would suggest that some language be included in the Act that would include the LEA in the program planning process for youth placed in private facilities at public expense.

## E. CHILD COUNTS

A fifth issue of special concern to the urban schools involves that of child counts. Not only are these counts used to justify the level of federal appropriations but they determine the distribution of funds, the likelihood of court suits, and the categorization and placement of children. Consequently, the counting of handicapped children can take on an appearance of mechanics that is distasteful and unfortunate. A number of factors have arisen, though, in the child counting procedure that result in a "Short-fall" for the urban districts:

1. The present counting procedure averages an October 1 and a February 1 count, a process that acts as a downward influence for city schools. Because of the large numbers of pupils, it is rare that the city schools can make a full count by October 1.

2. No recognition is made in the counting procedure for children receiving more than one service or having more than one handicap. We have no firm data on the numbers of children in this condition but have every reason to believe that an unduplicated count of children is not fully representative.

3. Since states vary in the way they define each category of handicap, there is a loss in the count in states which define specific handicaps more narrowly than does the federal government.

4. Many of the children in programs in our city schools require only brief observational, diagnostic or short-term services. Because of this short-term care and the large numbers of children with which the urban schools must contend, these handicapped children are often not counted for the purposes of Public Law 94-142.

5. Some handicapped youth, particularly the physically handicapped, may need no special services except a barrier-free environment, and are therefore not counted.

6. The children whose parents voluntarily elect a private program for religious purposes or to avoid desegregation efforts in major cities are often not able to be counted.

7. Special education pupils who have graduated from high-school level programs or who drop out of school after attaining the age of 16 are often unable to be counted, thus diminishing the number of 17-21 aged persons under Public Law 94-142.

The Council would be happy to work with the Committee in developing procedures that would account for children with multiple handicaps.

#### F. PROCEDURAL SAFEGUARDS

One of the most sensitive of issues under Public Law 94-142 involves the protection of the civil rights of handicapped youth. The Council would like to commend formally this mandate and to recommit our districts to its intent. We recognize the work still in front of us with regards to the civil rights of handicapped children, especially those from racial minority groups. We would like, however, to point out to the Committee two problems that have presented themselves to the urban districts, problems we are struggling to solve. The first involves the difficulty our districts have in balancing the rules under Public Law 94-142 and Section 504, and OCR requirements for student and staff desegregation. In some cases, districts are asked to be as efficient as possible in their barrier removal by consolidating some programs or by concentrating program services in particular buildings, but on the other hand, are required to distribute children evenly across the system according to race. The difficulties are only intensified with staff because of the extreme shortage of minority special education teachers. One of the results is that children have had to wait before their IEP's could be developed. The problems are not insurmountable but do require more legal administrative work than has been anticipated at the federal level.

The second problem relates to the first except that the federal government is directly involved. The adoption of Section 504 regulations established a monitoring system that replicates that under Public Law 94-142. The problem, of course, is that the two systems are not well coordinated and often result in conflicting rules. We would simply point out to the Committee that under the best of circumstances Public Law 94-142 and 504 are difficult enough to implement. Again, we would like to state unequivocally that the urban schools are dedicated to equity and quality in our special education programs.

#### G. INTER-AGENCY AGREEMENTS AND RELATED SERVICES

According to Public Law 94-142, related services means "transportation, and such developmental, corrective and other supportive services . . . as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children." The difficulty many of our districts have with this involves knowing the extent of the services for which they will be held responsible. Because the IEP process is administered primarily through the public schools, many hold the LEA's solely responsible for the coordination of all needed services and periodically the payment for those services. What has happened in some cases is that the schools find themselves paying for or directly providing medical screening, physical therapy, family counseling and some welfare items. A great need

exists for some clarification as to what the schools can be reasonably expected to provide and who it is who will take the responsibility of coordinating the services.

The Council of the Great City Schools is proud of the efforts made by its member districts in the area of education of handicapped children. Public Law 94-142 remains a landmark in the struggle for equality in education, a landmark in which the Congress should take great pride. The Chairman should be assured of our continued support for this important program and of our readiness to help the Committee in any way.

Mr. HUSK. I will just summarize some of the views that we have from the great cities of this historic legislation.

It is always interesting to be the last person testifying because your thoughts are somewhat moved by those who precede you. But I think the testimony that we have heard does reflect the varying views and positions of people who are responsible for seeing that the law is carried out at the State and local level. These views are, in many cases, overlapping, and sometimes contradictory.

I feel very, very privileged to have sat here with Mr. Borrelli because I think his perspective is very, very refreshing, coming from the local level, as the person who does have the responsibility for seeing that the act is brought into being.

I would like to add to the part of the testimony that Mr. Borrelli highlighted, and that was the advocacy part of it, and give a little bit more of the background of the law with regard to some other factors that were in existence in 1974.

I think when the law was being discussed there was a genuine feeling in the country that we were going to enter a large period, a huge period of school finance reform, and that we were going to be developing throughout this country more equitable financing systems, which would provide the right to every child of an adequate and appropriate education.

That, as Mr. Borrelli pointed out, did not come through. So what we have, in effect, is an advocacy law in the context of a financial environment where the funds are not being provided to the extent that they are needed.

I am very appreciative of the chairman's role in this past session of Congress to increase the Federal commitment to the handicapped, but I am afraid that even if that commitment were gained, it would not meet the needs that are out there among the local school systems.

Mr. SMITH. I am afraid that you should add that I had minimal success. I thank you anyway.

Mr. HUSK. Anytime that you are able to make it from the Budget Committee, beyond the Budget Committee and at least get some endorsement at one level of the operation, we consider that to be a leg up, because we all know that the legislative process is built on little sticks like that. The legislative process is built on little accomplishments, which do not seem to be very large, but end up being very, very essential.

The other part of the entry of the Government into the education of the handicapped is in the context of State law. I was reflecting, as Mr. Borrelli was talking about Connecticut, where the special education law was passed in 1968, and as others were testifying this morning. I looked at "Progress Toward a Free Public Education," which is a publication report from the BEH to the Congress, the amazing thing is that there are only three or four States that had legislation which

affected the right of every handicapped child prior to 1968. So education of all the handicapped is a very recent phenomenon, both at the State and the Federal level.

I think that that may be part of the problem. We have these policies which have just recently been passed by State legislatures after long debate, after long discussions, and so forth, and now we have a Federal law that comes in, and also sets out some policies that are a little bit different from the States, and so forth. I think that what has happened with this legislation is that two strings of policy have come tripping over each other, and it has caused quite a bit of resentment.

Then, I think, going back to the context of the lack of funds, you see new demands being placed upon schools, and other agencies, and now you see the drawback, or the cutback in the funding.

It is not unknown to the members of this committee that almost every State in the Union has passed some kind of measure which restricts the amounts of revenues that are raised for public education.

It is of no surprise to members of this committee that the social services, the health providers, and so forth, who also rely on Federal funds to provide some very needed services, have also been restricted.

Title XX now has a limitation, and it used to be a matching grant program. So programs that were previously provided in an environment where quality was being stressed, where the needs of persons who were previously not served are being stressed, this is all being done now in an environment where the funds are being cut back, and not provided for providing the services.

I think that the record of large cities in special education has been especially good in the sense that the large cities have, over time, provided extensive services for special education.

Mr. SIMON. If I may interrupt you for a moment. We have a vote on foreign aid, and we cannot very well not be over there for it.

I hate to do this, but if you don't mind finishing your testimony for the staff, and then we will have a chance to look at the record.

Mr. HUSK. That is fine.

Mr. SIMON. We appreciate it, and I want to express my apology.

Mr. FRANK. I think the point I was trying to make is, in the cutbacks that have occurred at the local level for other service providers, now we see that the services previously provided by other deliverers are now being asked of the school system as defined by this legislation.

I think Mr. Borrelli pointed out the rise in the cost of West Hartford, and I think if you took a school system of 9,000 and projected that in to the school systems of 140,000 or 150,000 students, you would be talking about millions of dollars of extra funds coming out of school budgets, now having to be reallocated for related services for youngsters.

I don't mean in this testimony to let this committee off the hook as far as it is concerned with the funding of this bill. But, many years ago, John Brademas made the statement that he felt that the responsibility of the legislator at the Federal level, after legislation was passed, was that that legislator then had to speak to the bill that was passed, had to alert the public to what the bill was intended to do. I don't find that, by and large, true any more with the Congress.

Laws are passed, and all of a sudden they are turning to the administrative agencies like BEH, and they say: "Now you administer



that law. You deal with all of the vagaries, and all of the ambiguities, and so forth, and so on, because we passed it, and that is it. Now, it is for you to implement it."

I commend this committee for having these hearings because these hearings are a forum for the committee members to now address the public and say: "Here is the law that at least two members were involved in passing. Now we have a new committee, and we are looking at this legislation again. We want to know how it is going. We need your response. Here are some of the things that we intend this to do. Can you help us to think through whether there are any changes that are necessary, any admonitions or directives that we might give to the Department to better implement it," and so on. I think that that is to be highly commended.

I know that there was a lot of pressure to not have the hearings, to not have this discussion. I commend the committee for taking up the challenge at this point.

I would like to make a few comments about BEH's role. I think that given the lack of articulation of Federal policy from the Congress, except as it is written in the law, which I think if you took each member and said: "When you passed this legislation, is this what you intended?" I would venture to say that many of them would say, "Well, we did not really intend that in that particular way." But I think that BEH, given the fact that it is coming out of an agency with a budget of about \$80 million 5 or 6 years ago, and now running demonstration programs with the States, running some special resource centers for children with special needs, has been capital to the leadership of providing technical assistance, monitoring of 50 different States, 50 different special education systems, with 16,000 individual school systems, and other kinds of systems in operation.

The fact that they have not rushed forward with mandates and crackdowns, and so on, to me shows a responsible action on the part of the Bureau, because it could have been easy to go in and to go on a few court cases, such as that, and to cause all sorts of anguish, and in the end deny the opportunities to youngsters, because once you get into the litigation aspects of educational opportunities, then you get into foot-dragging, you get into the action where nothing is done, while the courts have to determine what the outcome of the case is.

So I think that the behavior of BEH has been particularly responsible.

I think OCR will also have to pick up on that responsibility. I am very pleased at the way BEH and OCR have been in communication with one another and, in fact, have jointly funded some projects which push both sides of the local perspectives, the perspective of parents, the perspective of children, and the perspective of the school system. I think that that also is a sign of responsible behavior.

Mr. Borrelli has pointed out some things at the local level, which I think are tragic, but they certainly are true. That is, especially in those States which are highly urbanized, and in places with large cities, you do have rather expensive special education programs already in existence. So the new law does not really create that many increased opportunities for handicapped youngsters.

The amount of implied regulation, and the amount of prescriptive information that was included in the legislation with regard to IEP's.



and so on, have led to expenditure of large amounts of funds on administrative kinds of details, which have not really proved to be of any great quality.

One of our special education directors asked the question around the table one day: "How long is your IEP?" The range of IEP's went from 2 pages to 84 pages. So you do have this kind of initiative that is taking place in some districts in developing an IEP. In other places, it is probably too pro forma, and a two-page IEP is probably not acceptable.

In other cases, you have the problem where the regular education teacher, who was involved in an IEP arrangement, not only does not understand the IEP, but does not understand special education.

Therefore, you have got a problem many times where individuals and their associations begin to object about the amount of time that is being spent in developing these programs, or these plans for the handicapped children, and where are they going to find the time to do all of these things.

One of our staff members put a cost estimate in our cities that it had probably cost our cities \$37 million last year to develop IEP's. The \$37 million in developing IEP's resulted in less than a 1-percent increase in services to the handicapped youngsters. We can only hope that the IEP's led to improved programs for handicapped youngsters. I am not going to be able to testify to the quality of the IEP, and whether it really includes the services.

The last point that I would like to make, and that is with regard to the concern that several have expressed about the growing conflict between special education and regular education. It is coming. It is coming as sure as we are sitting here. The pressures that are occurring at the State and the local level for financial assistance are creating a great deal of that pressure.

One of the Congressmen mentioned earlier that perhaps we can, with the declining enrollment, shift some of the funds that were formerly being spent for regular education over to special education. In fact, the shift has already occurred. In most of our large cities, at this point, whereas about 3 or 4 years ago we were spending 5 or 6 percent on special education, about 15 percent of the funds for local education programs are being spent on special education programs. So that shift has already occurred.

The declining enrollment that also happened in the large cities has already taken place, and the aid which was to be provided to the cities has already been decreased. So, already we are facing large class sizes in most of our cities. In most of our cities, we are running 32 to 36 as an average class size, and not the lower ratios that have been cited by the States.

So the thing that is happening, then, is that, as Mr. Borrelli pointed out, there is a group of children who are getting well deserved services because of the demand, and there is another group of children in the school districts who are not getting increased services because of lack of supply. The two forces are playing havoc at the local level with school board members, superintendents, and they are creating havoc between special education directors and general administrators.

I am sad to report that when I first became involved with our special education project, we had, of course, 28 special education directors in

the training program. Out of the 28 that we had 4 years ago, we only have 18 today. What has happened to those persons? A lot of them have entered early retirement, some have been forced out of their position, and they have been forced out of their position basically on that issue: How are you going to cut your program? How are you going to reduce the amount of money that is being spent in the area that you are involved in? Because everybody else has got to reduce, and the special education directors are saying, "We cannot reduce. We have this State law. We have this Federal law. We have this court mandate. We cannot reduce the services." Yet, the people in the school system continue to put their pressure on them.

Before long, we will have our special education directors teaching at universities, or moving out to communities where the range and the scope of special education services are already being provided, where the kinds of financial pressures are not as great, and where they can live more comfortably.

It means that we have, in effect, a new cadre of people in our great cities who are responsible for administering special education, and they are going to be having to face the same challenge that their predecessors have.

Some of this is related to historic inattention to the cost differential of how much money you need to operate a program in the city, and how much you need to operate a program in another place. The National School Board's survey of costs documented that the programs in the cities cost 12 percent more than they do in other places. Yet, you do not see that kind of cost differential reflected in any State legislation.

Further, you have a Federal statute which provides money and some assistance, to States on a per capita basis, based upon national per pupil expenditure. In all but three of our cities, our per pupil expenditures exceed the national level, whereas in half of our States the per pupil expenditures are at or below the national per pupil expenditures.

So you have this diminution of the dollar as it flows from the Federal, the State, and to the local level. So, in effect, the \$300 that comes down to the city for special education services is more like \$175, or \$150 in what it can buy. I think that that has to be addressed. But you cannot continue to put the focus on the program.

Normally in the cities, when the court cases are brought with regard to denial of services, you can almost be assured that every court case is going to be in a city. It is a logical place to start. It is the biggest single place that you can deal with, and find the whole gamut of activities that you might find in the State.

So, I would hope that the committee would also not treat lightly on this funding issue, that it would look at both the appropriations level that is coming from the Congress, and give some leadership to the other Members of Congress in advocating the increase of those funds, and also look at the way that special education funds come down to the localities, and see whether they are actually going to be able to deliver the services that are required.

Thank you very much.

Mr. BURCH. Thank you, Mr. Husk, and thank you, Mr. Borrelli, for your statements. They were very thoughtful statements, which will

certainly be valuable to our subcommittee, because the local schools are ultimately responsible for the success or the failure of 94-142.

I don't have any questions for you, but I have a comment that I would like to make.

I had the opportunity to work on this subcommittee while John Brademas was its chairman, so I was pleased to hear your reference to his observation about the responsibilities of Members of Congress after a law has been enacted.

I think I can speak for the present chairman of this subcommittee, who shares the same view as Mr. Brademas. In these oversight hearings, it is our intention to take the recommendations and the suggestions that we have heard from our witnesses to BEH, and to use those to explain how Congress intended the law to be implemented and administered, so that we can make the kinds of improvements that are necessary.

Thank you very much.

Ms. SNEIDER. I have a question related to your comments about funding as it relates to services. I was wondering if there is any pay-back mechanism in place at the school district level that allows the school board to obtain funds from providers of related services like the Crippled Children's Act, the Rehabilitation Act, or similar acts to which handicapped children would be eligible?

Mr. HUSE. Representing 28 different school systems, I think that we could give 28 different responses. But I understand, if you want to see a school system where arrangements have been worked out for providing related services, Philadelphia is a system to bring in as a witness, or to bring the committee to see and examine that problem more closely.

Of course, Philadelphia has the advantage of being a dependent school district. It is a part of the mayor's cabinet. In a sense, it is a department of the mayor's office, and, therefore, sometimes it might be easier to coordinate these interagency agreements for the provision of these related services.

I think that the real problem is occurring in the various places where people are strapped for funds, and they still have increasing demands. They have just made the decision that since the school system has been given the responsibility through the legislation to do the coordination, and provision of the services, that we cannot reduce our commitment to handicapped children, but reduce our commitment, maybe, in another area, and then let the school system pick up on that. I think that has been part of the problem.

In other cases, where city agencies have been involved, it has been more specific, because our budgets have been cut, too. These are the services that you are supposed to be providing, and you provide them. But the extra Federal dollars, we don't have them in that kind of an approach.

Philadelphia, I understand, has that kind of an arrangement.

Mr. SNEIDER. Thank you.

Mr. BIRCH. Let me mention that we will resume these oversight hearings on the 24th, next Wednesday, at which time we will have testimony from the Bureau of Education for the Handicapped. Thank you.

[Whereupon, at 1:25 p.m., the subcommittee adjourned, to reconvene, Wednesday, October 24, 1979.]

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# OVERSIGHT OF PUBLIC LAW 94-142—THE EDUCATION OF ALL HANDICAPPED CHILDREN ACT

## Part I

WEDNESDAY, OCTOBER 24, 1979

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SELECT EDUCATION,  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, D.C.

The subcommittee met, at 9:45 a.m., pursuant to notice in room 2257, Rayburn House Office Building, Hon. Paul Simon (chairman of the subcommittee) presiding.

Members present: Representatives Simon, Miller, Kramer, and Erdahl.

Staff present: Thomas Birch, counsel; Sylvia Corbin, executive secretary; and Terri Sneider, minority legislative associate.

Mr. MILLER. The Subcommittee on Select Education will continue, at this time, its oversight hearings on Public Law 94-142, the Education for All Handicapped Children Act.

Our first witness this morning will be Dr. Edwin W. Martin, Jr., Deputy Commissioner, Bureau of Education for the Handicapped, Office of Education, Department of Health, Education, and Welfare.

### STATEMENT OF EDWIN W. MARTIN, DEPUTY COMMISSIONER, BUREAU OF EDUCATION FOR THE HANDICAPPED, OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. MARTIN. Thank you, Mr. Chairman.

I have to my left Bob Herman who is Deputy Director of the Bureau, and Dr. Marty Kauffman who heads our internal analysis and research group.

Thank you for this opportunity.

In the spring of 1966 this committee held a series of hearings that resulted in the passage of the first version of the Education of the Handicapped Act. I might say that the first hearings were held in this room, and I remember them well. Until that time it was several titles of the Elementary and Secondary Education Act.

The title called for a program of grants to the States for the initiation, expansion, and improvement of the education of handicapped children; the formation of a national advisory council on education of the handicapped; and the creation in the Office of Education of the Bureau of Education for the Handicapped.

Support for the new act expanded over the years, but only gradually. Funds appropriated for grants to the States totaled \$2.5 million in the first year, 1967; \$14.25 million in 1968; and \$29.25 million in 1969. By the time the eighth appropriation under the act had been adopted in fiscal year 1974, the total was \$49.5 million.

The scope of the program at that time contrasted sharply with the major elementary and secondary and higher education programs. The next year, however, with the passage of Public Law 94-142, the Education for All Handicapped Children Act, the Congress established a national policy affirming that appropriate education services be extended to all handicapped children.

During the past 3 years under President Carter's administration, the growth in funding has been greatly accelerated, rising to the proposed \$874.5 million level that is now before the Congress. Adding funds for other programs benefiting handicapped children—teacher training, material development, research, and the like—the sum is more than \$1 billion.

The significance of the progress represented in this brief history is not just in growth of Federal support in dollar terms. What is much more important is that our national purpose in aiding the handicapped has moved in revolutionary fashion from a small program based on compassionate concern to a fundamental commitment to the human rights of handicapped children and adults.

As your committee received the testimony of witnesses in 1966, it heard reports of handicapped children being turned away from schools, of parents of handicapped children having to move to other States to secure education for their children, or to pay private school tuition because no public programs were available, of education programs being conducted in such makeshift circumstances as church basements, of untrained teachers being assigned to special education programs.

I might just add, on the church basement issue, that in reviewing some of the letters that we had gotten as late as March of this year, we had a letter from Indiana, from a mother, pointing that her youngsters were in a church basement, and that that program was going to be terminated because the church basement was no longer available.

We did call her to find out what the resolution of the problem has been through the help of State and local authorities, and the youngster is now in a regular school program doing very well. But the church basement is not totally removed by 10 years from our experience.

It was a litany of frustration, a report of State laws unmet and State mandates ignored. This is not to say that no programs were offered, or that there were not exemplary school districts and even States. There were, in fact, many signs of local commitment and concern for disabled children. But there was no consistency, no promise of equal education opportunity from State to State and city to city, or even from school to school in the same district.

Today the situation is very different. The message of parents and disabled persons has been heard by school boards, State legislatures, and executives, the State and Federal courts, and by the Congress more specifically, and by the President. All have played a part in forging a "right to education" for each handicapped child.



Testimony will bear out, as has that of other witnesses before this Subcommittee, that the implementation of this "right" is far from perfect. There are a variety of real and substantial problems in implementing a law which seeks to provide an optimum educational program in an educational system which is itself imperfect in many ways for all children, and which has had a long history of failing to fully accommodate handicapped children.

In many ways Public Law 94-142 hopes to achieve a higher level of responsiveness to parents and handicapped children than the system has ever provided anyone. This accelerated pace inescapably leads to a certain number of frustrations, but it also points the way to fundamental improvements of the education system overall—for handicapped and nonhandicapped children alike—in the next decades. The kind of renaissance that Public Law 94-142 is stimulating seems to me essential in the public education system if the public education system is to thrive or even be maintained.

Here are some illustrations of progress made under the act with crucial additional impact coming from State and local actions, section 504 of the Rehabilitation Act, and various court orders, all of which interact to stimulate change.

(1) More handicapped children than ever before are receiving a free public education—about 4 million children. This compares with estimates of 1.2 million to 1.8 million children who were enrolled in 1966 when the process began.

(2) More than 230,000 additional handicapped children have been identified and provided special education during the first 2 years in which children have been tabulated under the law. Some 65,000 children were added during the first year and 165,000 children during the second year, and we have reason to believe that that percentage is continuing to grow at about the same rate. I might say at this time that school enrollment has been dropping by 2 to 3 percent, so that we might have expected a loss of 70,000 to 100,000 children, if we had not had this other massive movement that is going on, and if special education declined at the same rate that regular education enrollment has declined.

(3) Of the 37 States and territories, 48 showed increases in children served last year. In this last year alone, North Carolina, Georgia, Indiana, and Ohio added more than 10,000 children each; Mississippi, Vermont, the District of Columbia, Puerto Rico, and the Virgin Islands showed growth rates greater than 20 percent.

(4) There also has been growth in preschool children, over 20,000 during the last 3 years, and a growth rate of more than 10 percent. This is, I think, significant because this age range is not covered by the mandate, and at the same time it points out to us the need for accelerated activity in the preschool area.

(5) Since the passage of 94-142, approximately 25 percent of the States have enacted legislation assuring handicapped children full educational opportunity. Each State now has such a formal policy. Every State has also brought about changes in administration or regulation.

(6) Every State has adopted new interagency agreements to stimulate cooperation among education, mental health, social services, and

other agencies. While these agreements are historic steps forward, the full implementation of cooperative service programs present major difficulties requiring strong and carefully planned actions.

(7) Such services as physical and occupational therapy, transportation, and the like are becoming more widely available, without cost to the parent. For example, Connecticut identified 3,100 students requiring physical or occupational therapy and hired 40 full-time-equivalent therapists to meet this need. Houston, Tex., purchased 30 wheelchair vans at a cost of \$375,000 to make school programs generally available to children previously unserved. To make a local note available, we asked what was going on, for example, in the chairman's district in Carbondale, and one of the uses of the program here has been to bring some 50 students severely and profoundly retarded into the community school program, where those youngsters previously had been either at home or in State institutions. In the St. Paul area, 30 to 60 junior high school students are now in programs for the emotionally disturbed, this program replacing either exclusion or institutional placement. Less truancy and avoidance of the residential placement has resulted in the hiring of crisis teachers and social workers for the schools to work with emotionally disturbed children in their own community.

(8) Last year an estimated 160,000 children regarded as possibly having handicaps were evaluated as a result of "child find" activities specified by the law. Almost 80 percent of those children were found to be eligible for special education and were provided appropriate services. Meanwhile, more than three-fourths of the States have now established toll-free telephone numbers to provide information to callers about special education. Many of these services are provided on a multilingual basis.

There are other expositions of the progress and problems encountered in implementing the act in two reports the Office of Education has submitted to the Congress, both of them under the title "Progress Toward a Free Appropriate Public Education," with the first having been published last January and the second last August, specifically at the request of the Appropriations Committee.

We have appreciated the comments received on these reports, with many recipients citing them as among the most comprehensive and clearly presented ever received on a Federal education program.

In sum, Mr. Chairman, the Congress has played a significant part in bringing about a revolutionary advance in American education, and in the American commitment to the worth of the individual.

I feel that the progress which has been made is real, that it will endure, that it will provide the foundation on which the Nation will move forward, both in strengthening our education system, and in improving the quality of life for Americans everywhere.

To quote a recent study of the progress being made under the act: "In all sites, major activities were initiated in response to the Federal mandate; indeed, never have so many local and State agencies done so much with so few Federal dollars to implement a Federal education mandate."

This analysis was made after the first year of the act's implementation. Since then, progress has continued and Federal funds have increased by more than 300 percent.

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Nonetheless, as our reports indicate, there are issues and problems in implementing the law. It could not be otherwise, for Public Law 94-142, because this really is a massive change involving 16,000 independently controlled school districts and millions of teachers and administrators, hundreds of thousands of school buildings, all of which tend to have had previous patterns of experience, and all of which are now being required to change in a somewhat dramatic fashion.

So while the progress is being made, the path is not always smooth. Many school officials feel that the law calls upon them to provide more services than their resources allow. These officials usually say that they agree with the act's purposes, and concede that in any case State law, and in some instances court orders require them to educate handicapped children. Nevertheless, they still think of the major pressure as coming from Public Law 94-142, and the section 504 requirements.

Although all districts have established policies aimed at assuring the right to education, most teachers and administrators will admit that their district contains unserved children or children not receiving comprehensive services.

Moreover, they indicate that the system will not attempt to serve these children, or even find them, unless it perceives that it can find the money to pay for the services the children need. Three or four teachers and administrators included in the survey, an anonymous survey, I might add, by the HEW Inspector General's office, reported that they believed that they had unserved children in their schools.

Particularly in rural areas, the full range of expected services is not always available. There may be only one school or one class for all handicapped youngsters, and these children may have to be transported from miles away. Thus, opportunities for education in the "least restrictive environment" called for by the law are at best limited, and comprehensive service programs often do not exist.

In a contrary fashion, large urban areas have particular difficulty in conducting pupil evaluations and placing children in programs. Reports of waiting lists for children referred by teachers as needing evaluation are common in the larger cities.

In one metropolitan area, for example, we have been working with the city, the State, and the Federal court officials to reduce this waiting list crush. Some other cities are already under court order to eliminate such lists.

The problems of the larger cities with regard to special education are not really qualitatively different, and this is an important point, than the problems these cities are encountering with education in general. It is not as though the only problem these cities have is serving handicapped children. They have a tremendous logistical problem in serving all children, and the quality of services in general is under attack. The situation is complex, and the logistics difficult.

Parents have not always been fully informed of their rights under the law, and their role in the development of the child's individual education program is not as substantive as the law allows in certain instances. We are supplementing our monitoring activities in the States by increasing certain discretionary expenditures to help parent groups and others to play a more prominent role, in providing information and training to parents.

We are also supporting programs in which parents offer assistance and training for school officials and teachers, and provide information to nonhandicapped children toward helping them overcome uncertainties concerning classmates with disabilities.

I might say that when we began this program of supporting parent groups, which is done on a model basis, a number of the school people were afraid these groups would be adversarial, and they were concerned about our support of them. In general, they have not proved to be adversarial. The parent groups, in fact, have worked out to be very helpful sometimes in resolving problems before they go to hearings. They have worked up joint training activities.

From time to time, parent groups provide a necessary counterbalance in a situation, but our experience has been that where we have begun these in Massachusetts and Indiana, and in Illinois and Ohio, and where we have worked with others in Minnesota, and so forth, they are doing quite well, and I don't believe that the school officials would like to see them go away.

We have been concerned that some of the child-oriented public agencies have been withdrawing their traditional support for educational programs for handicapped children, essentially on the ground that the new Federal and State laws say the schools have the basic responsibility.

To counter this tendency, we have worked with a variety of Federal agencies to clarify policies—the crippled Children's Service program, Head Start, medicaid, the early periodic screening, diagnostic and treatment program, and others. Out of this, we have developed a unique series of written agreements between the Bureau and these agencies, perhaps the first in HEW.

However, although these arguments represent an invaluable start, they have not yet really worked their way through the complex network of regional, State and local offices and officials, often a long way from Washington in geographic and sometimes philosophical distances.

What we see as good for handicapped children may be perceived by a State or local administrator of these types of programs as taking money away from something more central to his or her priorities. There are many good things which need doing, and there is never enough money to do them all, so if something can be said to be someone else's responsibility, the temptation is to do so.

We intend to vigorously pursue this problem with other Federal agencies, and to conduct followup meetings at State and local levels to assure that all concerned have an appropriate understanding of what the policies actually are.

There are complaints by school officials and teachers about paperwork. We have been very concerned about this situation, particularly since our studies indicate that the overwhelming majority of it, and what is seen as Federal paperwork, is in fact the result of additional State and local requirements.

In virtually every instance, the goal of the State or local jurisdiction involved is to do a better job, and it is not that we are critical of the intent of those requirements, nevertheless the added load is almost always accounted for on the grounds that the Feds require it. For example, the IEP, the individual education plan, is frequently cited as

causing problems, and in some cases it does, although not necessarily because of the requirements of the law.

An evaluation project involving a sampling of more 2,600 IEP's shows a range of from 2 pages to 49, with the average being 4. Some are so brief or mass-produced that they seem not to be meaningful, but even more are so over-detailed, citing almost a step-by-step series of exercises to help the child to do a particular task, that without question they impose a paper burden.

Dr. Cal Frazier, the commissioner of education in Colorado, told me recently that he had just done a similar survey while on a series of visits to his local districts, and found much the same kind of variation, with local districts calling for what he regarded "excessively detailed IEP's" in an attempt to do a thorough job.

That unwelcome and in our view unnecessary situation aside, I think I would concede the law does, in some instances, create extra paperwork. Nevertheless, the overwhelming majority of the people I have talked to, and I believe this is borne out by the witnesses before this committee, do not want to abandon the fundamental concepts involved, concepts that do require documentation.

For example, the law requires schools to notify parents in writing concerning testing, or placement of their children. It requires them to have a planning meeting at least once a year, at which the child's program is drawn up and a written record is made of those agreed upon features of that program, to agree to provide parents a hearing concerning their child's program, and to have a record of expenditures under the law and of the actual number of children generating the Federal entitlement.

Each of these features and an annual application by the local district of the State comprise the Federal requirements, and while they do involve paper, we believe that most school people feel the benefits far outweigh the burdens, and they would not want to drop these procedures or IEP's to avoid the paperwork burden.

We have, this year, however, tried to begin ways to reduce that burden by changing our requirement for State plans to a 3-year rather than 1-year cycle. During our site visits, we are pointing out where we find examples of paperwork which seem to exceed the Federal requirements, so that the local people can either change those procedures, or decide that they want to keep them on their own behalf rather than on behalf of the Federal Government.

We are also going to be presenting this year models of IEP's that seem to do the job without being overly detailed.

There is a need for additional inservice training of teachers, as most teachers have received no training to allow them to work with children who are handicapped. I may say that we are trying to change that systematically. We have given more than 75 grants to deans of colleges of education now asking them to help revise the undergraduate curriculum for training teachers, so that this problem of most teachers having never had even the slightest experience with handicapped youngsters will not necessarily continue to occur in the future.

We have increased by 75 percent this year the number of teachers trained under our discretionary personnel preparation program, about 50,000 regular teachers. We now spend about half our personnel prep-



aration resources on inservice training of regular teachers, and the remainder is on the development of specialists.

These twin-efforts are of basic importance and we are encouraging State and local officials to use their available funds for these purposes also, working with colleges and universities. Of the \$804 million available this year for State grants, 25 percent are held at the State level, and could be the basis for in-service training activities under the auspices of State officials. The other \$600 million that go to the local officials could also support inservice training, and in fact does.

One of the prime uses of the money, for instance, in California is to provide inservice training for regular teachers.

Summing up, the far-reaching changes in American education set in motion by 94-142 have inevitably produced not only new opportunities, but new problems and challenges. In general these challenges are being successfully met, and problems successfully solve, and the process of our national system of education is gaining new strength.

I have had the pleasure of watching the movement to aid handicapped children as a professional since 1953, and as a worker for the Congress and the executive branch since 1965, and I am stumped by how far we have come. There has been a historic revolution in our Nation's values, and in the performance of our schools.

I think the Education of the Handicapped Act is having a more far-reaching and beneficial impact than most persons, even educators, have yet realized. I know this committee is aware of the changing nature of our population. If the trends continue, by the turn of the century only one adult in four will have a school-aged child. Such a development's implication on support of the public education system as we have known it seems to me to be important and enormous.

To survive, I believe the schools will need to have increased confidence and support from parents and other members of the community who believe that a strong system of public education is critical to the preservation of our national values.

I think that some of the premises of the Education for All Handicapped Children Act that now seem to be a burden to teachers and school officials may, in turn, prove to be ways of winning the confidence and support. Parents who feel the schools really welcome their participation and are ready to enter into a bargain to educate their children in accordance with each child's individual needs and aspirations, will be supporters of those schools, and of the people who staff them.

As a child's education is seen both by parents and by educators in terms of mutually agreed-upon goals and objectives, closeness will grow and any sense of separation will diminish.

In most parts of the Nation that is, in fact, what is happening today. Stimulated by the Education for All Handicapped Children Act and in response also to what appears to be the emergency of a new spirit in education, numerous States and local districts are implementing Public Law 94-142 in the spirit I suggest. Furthermore, they are beginning to wonder if this kind of individual involvement of the parents would not be useful for nonhandicapped children as well. As I say here. I see this as a constructive direction which may well be helpful for assuring the support by the public of the public school system.

Few school leaders want to see this program weakened. Most feel that Public Law 94-142 offers solid, constructive directions to the

future. To be sure, it poses challenges, too. For the long range, however, such powerful requirements as parent participation and due process are shaping up as critical elements in creating a climate that will assure a strong system of public education in the years ahead.

Thank you for the opportunity to meet with you. Congratulations on your extraordinary successful efforts on behalf of the Nation's children.

Mr. SIMON. Thank you, Mr. Martin.

We have a rollcall on the floor right now. We will recess for about 8 minutes, and we will come back and question afterward.

The subcommittee stands in recess.

[Recess.]

Mr. SIMON. The subcommittee hearing will resume.

Mr. Martin, you talked about the waiting list. Could you define that a little more?

Mr. MARTIN. Basically, the major nature of the waiting list comes when teachers feel a child has a disability, and they refer that child for evaluation and assessment. Most of the figures are estimates.

The two places where there is a track record. In Boston, for example, several years ago there was a court suit brought because Boston was not proceeding as rapidly as possible to respond to these referrals, and to process the youngsters. Obviously, that takes a good deal of time because you have to have a staff of several people who look at the youngster. So it is a logistical problem.

Boston has now made tremendous progress. They have organized a special effort to do that. They have done literally thousands of people, and it seems as though they are really bringing that situation under control.

New York is probably the city that is most recognized as having a massive problem, estimated to be 15,000 children waiting for this kind of analysis. New York had a history of a number of different attempts to solve that problem. In 1972, the commissioner of New York ordered it solved. There is a court case right now, and the Federal district judge has appointed a master to work on it.

This is the case that I was referring to, where we are working with the court-appointed master, and also with the State of New York, and with the city to try to put into place other systems.

From what we can tell, other large cities probably have some similar problems, but there is a reluctance of the administrators, obviously, to keep lists, and to make themselves vulnerable to these activities. So really the way we find out about it is by examining the districts, going to the school officials, and then negotiating procedures that should remedy that.

In some instances, and I think that this is clearly true in New York, it has been a problem that almost seems to baffle the ability of the school officials to solve.

Mr. SIMON. What kind of numbers are we talking about? What kind of time period are we talking about on the waiting list?

Mr. MARTIN. As I said, in that particular situation, we are talking about a number of 15,000. We do not have a national count of what the numbers would be. The time period is indeterminate. We have a 30-day requirement for youngsters to be educated and placed. In some instances, when we work on this, both the Office of Civil Rights and ourselves, you can't impose a 30-day requirement on a list of 15,000.

so what we are doing is negotiating with the court and with the city and the State, what is an appropriate period of time, what the rate of improvement will be, what checks and points there will be along the way to assure that the progress is there.

It is going to be that kind of a thing. I wish I could say to you that there are 100,000, and it will take 6 months to get rid of it, but we are not really in a position to do that, district by district, yet.

Mr. SIMON. In an individual city, so that we can get some feel for this, can a student be on that list for 6 months, a year, 2 years?

Mr. MARTIN. Yes; that, in fact, is the violation that we are attempting to prohibit. I understand what you are saying. Yes; students could be. Once the list has passed a certain point, there is a real question as to whether it ever catches up with all of the students.

I would assume that it would not be unreasonable that youngsters could be on that list throughout a whole school year. Mr. Herman was telling me that in the New York situation there were children who were on for as long as 2 years. That is what the violation in the law is.

It would not be unreasonable, for example, to have a 30-, a 60-, or perhaps a 90-day period if there was a problem, as opposed to a quicker activity. But when it starts to mean you are drifting throughout the whole school year, and children are not getting referred—I mentioned that this is a problem.

I will give you another example of another characteristic of the same problem. Some teachers have told us that they are reluctant to even recommend the children in the first place, because they know there will be a long waiting list, and by the time it gets done, the year will be so far over that they don't think it will be useful.

Teachers have also told us that they are under pressure from school officials not to refer children for the same reason.

So that is why the bottom line of our testimony to you has been that the progress has been enormous, but there are still some substantial problems coming out of the fact that this system has just not ever really accepted the notion that we are going to serve 100 percent of the handicapped children. Only gradually will it systematically, district by district, change gears.

Mr. SIMON. Are we cutting back on that time period now?

Mr. MARTIN. Yes; there is no question about it.

As I said, last year, for example, there were 150,000 children that were referred, and in every place where we find that kind of problem, we have negotiated a settlement that seems to be acceptable. There is a tremendous sense of need to do this.

Speaking with Superintendent Macchiarola in New York City, he is just going to put extraordinary resources, \$25 million is the amount that he mentioned to me the other night, in order to try to do this. But it is a major and complex undertaking, and it has been a great frustration to us, particularly where these massive concentrations of youngsters are, and there are other logistical problems. It is hiring the teachers, having to train psychologists, getting them all together, dealing with language problems, so that the evaluations are in the proper language.

It is a complex problem, but it is one that is moving toward success. If its not moving toward success, then we will intensify our efforts

with OCR, or with the Department of Justice and other ways to bring additional pressure on these districts.

Mr. SIMON. We have heard complaints from teachers who say they have a child mainstreamed in class who may be emotionally disturbed, have some other type of handicap. They have said that they are not notified at all, and, therefore, are not as helpful as they might be to those students.

Obviously, the Federal Government cannot solve all of these problems. While this has to be left to the jurisdiction of States and local governments, are we encouraging movement in the right direction here?

Mr. MARTIN. Yes; I think so.

You are right, such a decision is an action of the local placement committee. The law calls for there to be local placement committees that involve teachers, both the special teacher and the regular teacher, in the development of the child's individual program, which then results in the placement.

For example, Billie needs this kind of an education, and the placement committee decides that he can get that in the regular classroom with such a supplemental instruction. Ideally, the regular classroom teacher would be involved in that decision. Sometimes they are not, particularly the first time around, when the child is placed originally; has not been in the regular classroom, and there has been no track record on that particular child.

In other words, the structure that was in the law, and the structure that is in our regulations, does not encourage, or wish for, that to happen, and the responsibility for it is at a local level. That is a procedure where we find it, and we talk with school officials about what they can do about it. It is also tied to this question of many teachers not ever having any training and so feeling somewhat apprehensive about the introduction.

We had many more concerns raised in the first year than we had in the last year. That is not to say that the teachers are not still concerned about it, because they are.

Another way that we have tried to handle this is that when we go into a State—we go into every State every other year now—and we visit a number of sites, as part of the routine procedure of visiting a State, we invite representatives of teachers organizations to come and talk with us about the problems as they see them. We invite present representatives. We try to get a sense of what other problems are in that State, and have the State officials with us and the local officials with us when we hear these complaints, so that they can get a sense for what the issues are in their local community, that really have local solutions.

Mr. SIMON. One final question, and then I will yield to colleagues here.

We are having a problem getting appropriations anywhere near the authorization levels. What difference does it make practically at the local level where this program is effective whether that funding level is at 12 percent, 14 percent, or 16 percent, or 18 percent?

What does that incremental amount mean in practical terms?

Mr. MARTIN. I think the way to answer that—obviously, how much the Federal Government's share is going to be of this cost is a matter

of budget policy for the President and the Congress, notwithstanding who should pay for it. Our feeling is that each State has a State law requiring these services, and the fundamental responsibility lies with the State and local agencies, which burden the Federal effort is really helping to facilitate.

Having said that, the most common problem reported by virtually all people, including to us, to the Inspector General, to your committee, is that we are asking here for services that the schools have not provided historically, and there are real costs involved.

If you hire new physical therapists, it costs money. If you begin a program for emotionally disturbed youngsters, it costs money. If you want to assure that multiple-handicapped children receive the comprehensive services they need, it costs money. If you want to set up a screening program to find the unserved children, if you want to reduce the waiting list, all of those things are directly labor intensive.

Basically, what we are finding is that State and local expenditures are going up. The additional Federal funding has not in any way decreased State and local effort. In fact, in some instance, it seems to be accelerating in many States. So there is an upward trend, but when you say to people, "Why aren't you serving everybody; why aren't you doing all you should?" they look at you and say, "It costs." So it is as direct a relationship as there could possibly be between availability of resources and output.

One could always argue that the priorities are different. You should take money away from existing expenditures, and put them where they are needed. I know school administrators are wrestling with that. In fact, they are troubled by it. They fear it would create a kind of a backlash if they have to be in a position of doing that.

There has been a recent survey by one of the staff members at the EEOC. They pointed out, however, that the percentage of expenditures for handicapped children vis-a-vis the percentage of expenditures for nonhandicapped children has really not changed. While the dollars in absolute terms have increased, there has not been any dislocation of funds away from normal children as sometimes is speculated about in various concerns that are raised that this is taking it out of the hide of normal kids. They find absolutely no change, as a matter of fact, over the last 8 years. It runs about 3 percent of all expenditures, which is less than I would have thought.

Mr. SIMON. Mr. Miller?

Mr. MILLER. Thank you, Mr. Chairman.

In determining when waiting lists become a problem, when other factors of compliance become a problem, how do you work with the Office for Civil Rights in gathering data on a State?

Mr. MARTIN. Before we go visit States, we ask OCR for a list of the complaints that they have, or actions that are pending in that State. Sometimes there is a gap between that information reaching us, and the actions actually being originated because OCR is a regionalized organization, and local investigations may start in Seattle, Wash., and so forth and so on.

We never go to a State, or we never approve a State plan without knowing, to the best of our ability, what complaints are pending, and what the nature of those complaints is, both complaints that we receive directly, or what OCR has.



We also work with them on the resolution of various matters. For example, we recently worked with a major problem in one of the territories where they are not, by all accounts, providing services in accord with the law. The question becomes, "What are you going to do about that? Are you going to cut off the funds, or are you going to establish timetables?"

In these cases, we negotiated timetables that seem to us to be more stringent than at first proposed, and certainly more stringent than the State, or the territory in this case, wanted, but that are necessarily important to do.

It is an impossible issue. Ideally, you would want to say, "Thirty days is it, that is it." But you have to try to get some sense of it. So our feeling is that we cannot simply extend the deadlines in the law as a matter of principle. We cannot extend free and appropriate public education until 1981, and the rule of thumb is to negotiate it, in part, against the number of kids to be served, and the magnitude of the problem, and to look for real and specific progress that can be measured, let us say, every 3 months toward the solution of the problem.

In those cases, if we feel we can see an actual change in behavior, such as in the situations we have mentioned, where the waiting list is declining, the curve of services is going up, there is increased expenditure, there is a clear commitment, then it seems to us that that justifies our continued support.

If, on the other hand, all we get is a paper response, nothing happens. There is no real progress. Then it seems to us that it is going to require for us to take whatever actions are available to us.

Mr. MILLER. In terms of gross figures, let us assume that you have a State where the waiting list is declining, and then as you break down the gross figures of the waiting list decline, you find OCR in their ongoing evaluation, or in your own ongoing evaluation, that you have the continued problem that we have had since we wrote the act, and that is, questionable overrepresentation of certain minority groups in various programs. How do you handle that?

Mr. MARTIN. I have no pat answer to that, Mr. Miller.

Here are the kinds of procedures.

The act calls for a system of trying to avoid such placements, such as the overrepresentation of minority group children, the discrimination against minority group children by various kinds of testing procedures. We have and do monitor vigorously the dimensions that are available to us. For example, the use of multiple measures as opposed to single test measure.

The reason it becomes a hard issue is because some of the factors associated with—I have been working on this with OCR for about 5 years, trying to find rules of thumb or ways of processing, or ways of solving that problem. But if you have youngsters who have suffered from poverty, from malnutrition, from a variety of other factors, all of which seem correlated with impact on those children's development, then you have to allow for the fact that there may, in fact, be more signs of academic problems than you would find if the children did not have the same conditions of poverty and malnutrition, and so on.

Most people have not accepted the concept that you would necessarily expect to find exactly the same percentage of children in all popula-

tions, notwithstanding their environment, and not withstanding these other things.

The question is, how much is enough? If 3 percent of children on the average are retarded, and 6 percent of a minority group are retarded, does that mean discrimination on the face of it? Is it a result of the total environmental milieu?

How would one find out? Ideally, you would find out if you had a magic test that would tell you: "This kid is really not retarded. This kid is somehow a nonretarded youngster." Those tests have never been developed, although we have been working and supporting, in fact, research in the area of the kinds of tests that attempt to get around that problem by looking at the youngster in his environment, in the milieu. We do know from some of the research that the prediction of how the child does in the everyday, with his peer, on the street, at home, is probably a better estimate than how he does on a given test.

The committee knows that a court in California has just ruled out the use of IQ tests for placement of minority group children. I have not had a chance to read the whole record of that case, but I am familiar with that case, and it has been pending for 4 or 5 years.

I have a hunch that what the court finally decided was, even though California was supposed to have a system which included developmental assessments, and other things, they felt that the test was really carrying most of the weight.

The Federal law operates on the same premise that California operated on. That is, there should be a variety of measures, and this would discount any possible discriminatory effects of the testing.

I am not persuaded it does. I think what we have to do is, frankly, look at that court order—Mr. Cheatham who will be your next witness and I have already talked about this—and decide whether or not a change in the policy, either in the regulations, or a recommendation to Congress in regard to testing per se, is in order.

Mr. MILLER. I am not trying to say that we expect an exact mirror image of minority populations in terms of representation in special education. But the OCR testimony suggests that of the black students in special education, those in the EMR program are in fact double that of the white population. From 1976 to 1979, it has gone down a little bit, but it is still a dramatic difference in ratio of students involved.

Our concern is why, and I know that they are talking about additional studies as to why this happens, but we had an awful lot of testimony back when we were writing the act that for the lack of something better, you were classified as EMR. We went through students' records, and we found really that many students with language difficulties or with bad manners ended up in the EMR classes, and things got much worse after that. We ended up finding them all over the country in institutions.

My concern is what methods of evaluations that you have to make those determinations, and what weight you give a determination by OCR that the thing is out of balance in a particular school district, or in a particular state. What weight is that given in the approval of a State plan?

So that we break down those growth figures, and the first part of your testimony is very encouraging, where we talk about the growth of numbers of children that are being served, and the progress being

made, and all of that. I am concerned that we are doing it in a methodical, careful manner. We are not just taking this waiting list, and saying: "We will get rid of them because we have an abundance of EMR students, but we are having trouble hiring special teachers, so we will do it in that fashion."

I am not sure that that is the intent, but they are also under pressure to reduce the gross figures.

I just wonder what is the method by which you make determinations. Do you go with what OCR says is an imbalance, or is there a separate evaluation that occurs?

Mr. MARTIN. We have worked on this issue with OCR, as I said, for about 5 years. Originally, when OCR began to become concerned, even prior to the passage of 94-142, it came up in relation with desegregation orders. I remember working with Martin Geary, who was then the Director of OCR, and sitting down and talking with him for a long time about it; about what could be done.

The temptation is to set a quota, to use a numerical ratio as the kind of output. As we talk to people across the country, all of them are familiar with the problem. Nobody felt that was the way to handle it. It did not relate to the individual child. There was no body of knowledge that provided a rule of thumb for what was a reasonable amount of retardation in populations that had suffered other environmental consequences.

We felt that the only solution to that, and that was the testimony that we probably gave to this committee when it was writing it, and I think that everybody gave pretty much the same testimony, the only solution that one could come up with was a process which would attempt to discount the impact of any given test, where each youngster would be looked at, and there would be a variety of observations made of classroom and outside behavior.

I personally talked to the committee, when you were writing the bill, about that concern, and about the fact that there was not a simple solution to it, that there was not even a test that I could bring up and say: "This is a nondiscriminatory test."

The only solution that educators had at that time was to say: "If you try to look at these youngsters measure by measure, and get a full pattern of them, that should be preventative."

For example, when we looked at some of the abuses in States where we found—I will give you an example, in one State there were 88 children who were identified as retarded, 14 of them were children from a majority culture, and they had had one kind of an evaluation program, and the other 74 were from a minority culture, and they had a different kind of an evaluation, much simpler, teacher referral, one measure, and so forth.

That was the kind of thing that we felt we could rule out on the face of it. We could avoid the discriminatory patterns of appraisal that treated one group of children differently than another with regard to placement. That has been the tack, really, that we have worked with.

We have not had any situations, for example, where OCR has said to us, "This district is out of compliance," and we have said: "We ignore you. We are going to go ahead and fund that." We have had none of those confrontations yet with OCR over this.

We are both concerned about it. We are looking for remedies. We had hoped the multiple battery remedy would be an effective one. I find myself, probably much like the court in California, I am not sure whether the multiple batteries really overcome the potency of an IQ measure. It is a little bit of artifice to say: "Stop using the test," but it may be that it is a way of getting at a problem that will go back and require it.

In California, what has happened is that California has one of the lowest enrollment in classes for children who are called educable retarded of any State. It is one of the bottom four or five States over the last four or five when they have been prohibited from using IQ tests. I don't know where the children are that might have been there, some of them may be in title I classes and some of them in the educationally handicapped category that California has.

It is pretty clear that you can change the enrollment patterns if you change the total methodology of doing it.

As you know, and the OCR testimony points out, they have turned to the National Academy of Sciences for some help in trying to analyze this problem. We are very aware of that, and we do many cooperative activities with them.

It is a problem. We are specifically working with the States where there are large enrollments in mental retardation, to reexamine their procedures. Our indications are that they are reducing these enrollments, and being more sensitive to the question of minority group enrollment.

Mr. MILLER. Let me ask a final question so that other members have a chance to question.

Have you looked at the difference between individualized education plans within the categories? Have you looked at educational plans that have been developed for EMR students, for SLD students, for the various classifications the students can be put into?

Have you looked at what school districts have prescribed as a program for these students, and the variances in them?

Mr. MARTIN. The answer to that is, we are beginning that. We captured several thousand IEP's this year on a sampling basis, and part of the analysis that will be done will allow us to look at that particular question.

Right now, I cannot say to you that these are going to break out by type in this order, and they have these characteristics in that. But it is part of the analysis that is ongoing in the study that we have commissioned.

Mr. MILLER. It is my understanding that the student is, in fact, given a classification.

Mr. MARTIN. In some States, but not in all.

Mr. MILLER. My concern is, where that takes place, that the clarity with which the IEP has to speak to the student's problems and the prescription for remedying those seems to be lessened as the student is placed in a broader classification, maybe because of the difficulty of prescribing.

Mr. MARTIN. Let me respond to that, because I think that is really the direction that the program ought to go in the future, and not everyone shares this view. As a matter of fact, I raised this in 1975, and so did some other people.

You can make an educational plan for a child, which describes the behaviors that the child shows. This child reads in such and such a way. The child does arithmetic in such and such a way and so forth. Here are the kinds of educational goals that ought to be in order for that child. Here are some reasonable short-term objectives and here are some long-term objectives.

It would be quite possible, and many educators do this, who have behavioral philosophies.

Instructional programs for children that do not necessarily have to stay on top of them, such as the EMR kids, so forth and so on, those things that played a variety of useful functions in the past, but they also have some negative consequences.

My feeling is that part of the reason they remain has been because they did serve an administrative and political function. It did help generate resources for special education programs for people who have a sense, this is a retarded kid, this is a deaf kid, this an emotionally disturbed kid. Members of the lay public knew what they were talking about, and it was not a sort of a generic, any child who has a problem is somehow going to be called a child with special needs and, therefore, should get into the program.

My own feeling is that we really should evolve in that direction. I think that once that sort of fundamental commitment to handicapped children is incorporated into the system, we ought to move away from the ideologic labels which I think really are not functional educationally, but which have been useful in developing support in this area.

Without those labels, then you are talking about, you have a school system that can provide this youngster with a response. It is for that reason that we have also been working to try and move as close together with the title I programs as possible, to allow these two programs not to be redundant, but to allow youngsters to move flexibly into these programs.

Mr. MILLER. The youngster should be allowed to move with some flexibility throughout the system.

Mr. MARTIN. That is absolutely right.

Mr. MILLER. My concern is that the individual education plan, in fact, is that. My concern is that we put a tough burden on those people who develop that plan to write out the prescription. The prescription may be institutionalization for that child, I don't know. The fact of the matter is, is, in fact, that being done?

You say that you have that under review, and we will soon find out.

Mr. MARTIN. It is, in fact, being done in general, but I cannot tell you whether it is different.

Mr. MILLER. I am concerned that at the lower scale the burden is not as great as it might be, because we have a child that everybody recognizes has great problems and, therefore, we will just kind of string along. That is not what the law says. The law is very, very clear.

Now, I don't know how the regulations are doing, when you get the variance between 2 pages and 49 pages, but the law, I think, if you are teaching school, and you can read, I think you understand what it says. That would be my concern.

Thank you, Mr. Chairman.



Mr. SIMON. Mr. Erdahl?

Mr. ERDAHL. Thank you, Mr. Chairman.

Thank you for being with us, Mr. Martin.

I think you have sensed from my colleagues on the committee, from Chairman Simon, and the gentleman from California, Mr. Miller, a concern as we look at this whole area of waiting lists, and that some children are being missed.

You have encouraged us, I think, by your statistics that the curve is going up. But I would like to emphasize a point, and then ask a couple of questions on another area of your testimony.

Hopefully, you that are working with the agencies at the Federal and State level, and those of us in the Congress, never forget that we are trying to deal with individuals. An analogous situation would be, when I was back in Minnesota, which has one of the lowest employment rates in the country, 3 or 4 percent, a fellow came to see me, and he talked about the statistics. When you are unemployed, it is 100 percent. When a family or an individual that needs some special help is being missed, the statistics are not very encouraging for that person, because for that individual it is 100 percent.

I know you sense that, and are working in that direction.

I would just like to ask a couple of questions. You have mentioned the whole business of the interagency funding, and some of the challenges that appear there. I believe on page 4 of your testimony you make the comment that every state has adopted new interagency agreements to stimulate cooperation among education, mental health, so forth and so on. Then you end up the phrase with "the full implementation of cooperative service programs presents major difficulty requiring strong and carefully planned action."

Could you be more specific? Are we talking about the need for some modification in the legislation, or in the rule process to see that this cooperation can go on. Is funding available from various agencies? Could you elaborate a bit more fully on that please, Mr. Martin?

Mr. MARTIN. The act says that the persons responsible for education should have overall responsibility for the child's total program. It might be delivered through another agency, but there should be some general supervision from the educational authorities.

In practice two kinds of problems have emerged. One is that the educational authorities don't always feel that they are in a position to exercise any supervision over, let us say, the department of health, or the department of mental health, or other State agencies. So it is very, very difficult for them to do that. Now, in some States it is not.

In some States, the commissioner of education generates standards, generates certain procedures, anything that happens in any kind of an educational program is clearly under that person's authority. In other States, that has not been the case, and each unit has been very autonomous, and in some instances really cooperation has been negligible, if any.

Now, we have tried to bridge that in a number of ways administratively. One is, we have the HEW units that are comparable to the State units, and have asked them to work with us to clarify that these groups can serve each other.

The key issue is an issue that is found in a lot of noneducational legislation, which is in shorthand called, the first dollar issue. That is, many of the other programs have a provision which says that they should not be paying if somebody else will pay.

So there has been a tendency on the part of State agencies to feel that 94-142, and other State counterparts, have put the education people in the position where they should pay for all these things. Therefore, these other agencies should not pay for these things any more.

There has been a pattern around the country of other agencies actually withdrawing support for programs they one time funded. This includes some rehab agencies, the Crippled Children Services, to some extent, and it includes EPSDT programs for screening, to a lesser extent. But some of the title XX programs, I guess, are the ones that I was struggling for.

Now the other question comes up with regard to free. The act says: "A free appropriate public education." Some of the other programs have a provision that there has to be cost sharing, so the question is, who pays. In that we were able to work out that, even though in some instances it appears that the parent had to be the one who paid to receive those services, the school could conceivably pay on behalf of the parent; and the attorneys felt that this did not violate the spirit of the thing.

Let us suppose that you had a mental health service where it required the payment by the person to be at least 10 percent, or something or other, and if they paid it violated the free-and-appropriate-education part, and they did not pay, then the other agency would not provide the services. It has been that kind of a matching together of these programs.

We really had pretty good progress with most of the HEW agencies. They have mostly been sympathetic, and tried to match up ways to benefit the child, but it has consequences at the State and local level. It has consequences of the dollar expenditure. It has consequences through bureaucratic turfman-ship. It has a lot of consequences, so that we have not leaped fully into implementation with this cooperative services.

We have done some things. Specifically, for example, this document was developed by the State rehabilitation chiefs, the State vocational education chiefs, and the State special education chiefs, to encourage cooperative planning, to bring together linkages, and we have asked for State-by-State plans to reflect this.

Mr. ERDAHL. Perhaps you could identify this for the record, and for our staff.

Mr. MARTIN. It is a document called Cooperative Planning for the Handicapped—A National Workshop in Developing Comprehensive Secondary Programming and Rehabilitation Services for the Handicapped. We have a guide here that we originally put together for EPSDT: How to Guide for Educational Programming. EPSDT is the early periodic screening detection and treatment program. What we have discovered is that there are a couple of ways this can happen.

One is that the schools could actually provide services for EPSDT eligible children, and then be reimbursed for those services by the

health funding agencies. Another way is that there could be cooperative arrangements worked out, and so forth, and so on. But to convert that into actual practice, we have had to develop, in a sense, this kind of a how to guide, we have had to work with certain communities that are doing this—Hartford, Conn., is one. Philadelphia is one. New Orleans parishes—actually show the two working together. It is gradually spreading out.

Now, whether the Congress could do something about it is really a question. I know people have recommended to you that, in a sense, there be a mandate for these other programs that they cooperate and coordinate their services, and in fact be willing to provide support. But it gets highly complex in the actual working out, but I am sure you will know how to do that.

For example, with the rehab program, it does not have a mandate necessarily to really serve every handicapped child. They evaluate people. They make judgments as to which people are more in need of rehabilitation than others, what the priorities are.

There is not an absolute mandate that every handicapped child as he turns 14 or 15 automatically becomes, in a sense, a commitment on the part of the rehab system to pick up where the school system lets off.

What we have been trying to do, in fact, is to set up that kind of collaborative arrangement where the rehab people would start looking at the secondary age handicapped kids, and begin planning for them to make that transition.

But the laws do not necessarily intersect with the same degree of mandate as they do in 94-142. The same would be true of health services, mental health services. But it is an area that I think really does require additional study, and testimony from the various agencies in question.

In part, I suppose, the Congress along with the executive branch has suffered some from the fact that there is different committee jurisdiction and other problems that make it hard to integrate at that level.

Mr. ERDAHL. One more question, if I might, Mr. Chairman.

Commissioner Martin, you also touched on the excess paperwork, and this is something that is not peculiar to this area, or this agency. At a recent function, I met a person who was a teacher, who talked about the challenge and the reward that she felt in helping handicapped people, but she got out of it because she claimed that there was just too much paperwork.

What can we really do? Could we have some type of a standard IEP, that instead of 47 pages, two pages should do it? What other things specifically might be done to cut down the burden of some paperwork that I feel must be classified as unnecessary?

Mr. MARTIN. I think that it is a very frustrating problem. Every time I meet a teacher, they give me that. I find that to be extremely frustrating. I have worked in the classroom myself, and I know what that is like. I find the Government to be extremely frustrating also, I might say, with regard to paperwork sometimes.

I think that there are a number of things that we can do. We have not leaped to the quick solution, which is to say: Here is the IEP. Do it this way, for a couple of reasons.

One is that it would be an enormous Federal intrusion into the freedom of the school district for us to tell them what an IEP should be, rather than to let them have their own flexibility to do it.

The other reason is that the paper is really, in a sense, the end result of the process, and it is the process that is important. The individuals talk together, and the individuals' thinking. You could have a really good IEP on paper, and it would be a rotten representation because the parents really were not involved. Some experts sat down and wrote it all out, and got the signature on the bottom line.

The process, it seems to me, that we have been trying to follow is twofold. One is, we have attempted to calculate these things, to take a look at them, to see what they look like, to actually pull them out. Whenever we go into a district, we pull out IEP's, we see what they look like.

They are, by the way, Mr. Miller, going back to your earlier point, highly individualistic, both for children, and by teacher, and by district. They really represent a creative attempt in most instances to do that.

There have been some generated by mimeographed, and even some computer-generated, which are not necessarily wrong, but which raise a lot of questions for us to look at more carefully about what that really means, and are they useful.

We are going to try and present several models of what a paper document looks like that seems to be OK, on the premise that the process that led to that document was a valid process. We do have this going on now. Several of our discretionary projects have identified so-called model IEP's, and model processes. A number of agencies, public agencies, CEC and others, have developed model IEP's, and I think that it will catch on.

What is so incredible is that we have four million of those in place around the United States in 2 years, and it really leaped from nothing into this. Now we are in the process of refining.

I think that the paperwork should cut back. Everybody is horrified about it. As I mentioned, the State commissioners and the local people are looking at whether they are laying add-ons on top of the Federal add-ons. We are committed to try to point this out again and again.

The Federal requirements, I don't believe are terribly onerous, although that depends on your perspective. Some people feel that to have to write to the parents in advance, and tell them that there is going to be a hearing, or testing, is an onerous requirement. They had not previously done it. Some people feel that the IEP itself is an onerous requirement. They had not previously done it.

There are really only a half dozen of those things, and I think that if we can trim them down to a page or two each, many of them are necessary, as Commissioner Frazier pointed out the other day, and have always been necessary to the implementation of the program anyhow.

Someone has to keep rolls. Someone has to track the money. So you are really viewing the due process and the IEP as the two new concepts that require some documentation from 94-142. All the rest of it, one would expect that any education system would have to have.

We tripled the number of projects last year designed to help people develop IEP's in a streamlined format, and we had more than 250 projects last year across the country, inservice projects on how to shape an IEP, how to make it less onerous, and so forth.

Mr. ERDAHL. Thank you very much, Mr. Martin.

Thank you, Mr. Chairman.

Mr. SIMON. I have one final question.

As I glance through your testimony again, are you not suggesting the need for any statutory changes?

Mr. MARTIN. We are not at this time, and in this testimony proposing that, sir.

Mr. SIMON. Mr. Miller, any further questions?

Mr. MILLER. I just wonder, you have mentioned several times that you have a methodology developed by which you undergo periodic reviews of all these programs. I assume there you are talking about State plans, or is that what you are talking about?

Mr. MARTIN. What we do, Mr. Miller, is first of all, an annual review of State plans, although we will be moving to a 3-year review of that. But we visit districts. Right now, our resources allow us to visit a State every 2 years. When we are in that State, we do a number of things to try and really get some sense of what is going on in that State.

One, we meet with representative groups, parents, teachers, administrators, and we have public meetings. The second is that we sample a number of districts in that State, 10 or 15 districts, sometimes four or five State institutions as well. We always sample a number, but it depends on the number of those.

When we go into those local districts, we go into the files, we look at what the IEP's look like for children. We find out whether the children who are counted, in fact are in the program. We look at the record of due process hearings. We look at the documentations. We look at each of the 20-some-odd points that are under the law.

We spend about a week. At the end of the week, we debrief the chief State school officer, ordinarily, on what we found in his State. We then write a report to the State, which is highly specific, and which calls for remedial actions, and which sets timelines for those remedial actions, for a response from the State.

We would negotiate once with the State if they feel we have found something that is not there, but in general the pattern is of a fairly substantial document, which goes through each part of the major requirements of the law, and which makes a specific finding and recommendation on the basis of this particular sample.

We then go back later for a verification of corrective actions that the State has told us it has taken. We ask them for either some kind of a corrective action that can be documented, and we go back and verify.

All of this is less than I would like to be in terms of frequency and intensity. Because of the complexity of the task, and visiting the States every 2 years, at this point in time it is probably not as intense as it ought to be. We are looking into, hopefully, and have commended and I know the administration has been considering, whether we could increase the frequency of those visits and the intensity of them.



Let me give you an example. I guess there must be 500 corrections that have taken place as a result of these visits, actual corrections, changes in procedure, modifications. We also have some 350 parent letters that we received since the act has been in effect, submitted directly to us. We follow those to conclusion. Of them, 240 have been successfully concluded so far, in the sense that they worked out and the problem was resolved, or a few are in court, and some are still in process. But we track them item by item. That is how I could tell you about the lady in the church basement problem, which her child is now in the fifth grade classroom.

It is a fairly elaborate process from what the people tell us in the agency. It is probably the most intensive monitoring of any of the Federal education programs, but that is reasonable because it is a much more detailed program than the others. There are discussions of this program that really go far beyond anything required in title 1, for example, so it requires a different kind of intense monitoring than the other Federal programs do.

It is not perfect. We feel frustrated when we find that we have missed things, or we were in the wrong district. When we are in Dayton, and they will say, "Well, in Columbus, they are not doing the same thing." So we try to follow that through by setting up State practices.

The law implies a good deal of State monitoring, and many States have done almost no monitoring at all. They are now putting in place monitoring procedures. That is one of the things that we look for, a documentation of their own monitoring visits.

We have, for example, suggested as a State pattern, which most States have accepted, that they visit every district at least once every 3 years, and visit the major districts once every year, or any districts where there are problems every year, to see about local compliance.

Mr. MILLER. Thank you.

Mr. SIMON. Mr. Erdahl, any further questions?

Mr. ERDAHL. No; thank you, Mr. Chairman.

Mr. SIMON. Thank you very much, Mr. Martin.

Mr. MARTIN. Thank you for the chance of this very comprehensive hearing. I appreciate your support of the legislation.

Mr. SIMON. Our next witness is Mr. Wilbert H. Cheatham, Deputy Director for Program Review and Assistance, Office of Civil Rights, and he is accompanied by Mr. Paul Kretchmar and Mr. Ned Stutman.

If the Chair can make the observation that you are also accompanied by a former Hill staffer, Patsy Flemming, whom we are pleased to see here today.

Mr. Cheatham, we welcome you. We have your statement. We can enter that in the record, and if you wish to read your statement, you may, or you can summarize it, however you wish to proceed.

Mr. CHEATHAM. I have both a summary, and the longer statement, but I believe, because of the questions that I have heard you address thus far, it probably would be more beneficial to go to the longer statement. It will take about 15 minutes.

Mr. SIMON. However you wish to proceed. Let us go to the longer statement, then.

**STATEMENT OF WILBERT A. CHEATHAM, DEPUTY DIRECTOR, PROGRAM REVIEW AND ASSISTANCE, OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY PAUL KRETCHMAR, DIRECTOR, DIVISION OF RESEARCH AND ANALYSIS; AND EDWARD A. STUTMAN, CHIEF, HANDICAPPED DISCRIMINATION BRANCH, DIVISION OF STANDARDS AND POLICY DEVELOPMENT**

Mr. CHEATHAM. Thank you, Mr. Chairman.

We appreciate the opportunity to participate in the hearings that the subcommittee is conducting to review implementation of the Education for All Handicapped Children Act.

The Office of Civil Rights enforces several civil rights statutes that prohibit discrimination in programs and activities receiving Federal financial assistance.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap in federally assisted programs and activities. On May 4, 1977, OCR issued a regulation to implement the statute with respect to HEW-funded programs and activities.

Subpart D of HEW's regulation applies section 504 to elementary and secondary education programs. The regulatory requirements generally conform to the standards established under the Education for All Handicapped Children Act.

In brief, section 504 requires that handicapped persons, regardless of the nature or severity of their handicap, be provided a free appropriate education. Handicapped students must be educated with non-handicapped students to the maximum extent appropriate to their needs, and school districts must identify and locate all unserved handicapped children.

School districts are also required to implement evaluation procedures to avoid misclassification. Procedural safeguards are required to enable parents to influence decisions regarding the evaluation and placement of their children.

The term "appropriate education" means that each handicapped child has a right to an individualized education that meets his or her needs. An appropriate education could consist of assignment to regular classes, assignment to regular classes with supplementary services, or placement in special education programs and related services.

A school district is required either to educate a handicapped student in its regular program, or provide the student with an appropriate alternative education at public expense. And the district may only remove a handicapped student from the regular educational setting if school officials are able to demonstrate that the needs of the student would be better served by placement in another setting.

The subcommittee has asked OCR to outline the steps that have been taken to enforce these and other provisions of the section 504 regulation. In addition, the subcommittee expressed interest in other Federal statutes, title VI of the Civil Rights Act of 1964 and the Emergency School Aid Act. These laws, which prohibit discrimination on the basis of race, color, or national origin, are relevant because they prohibit classroom assignments that are racially motivated.

Our investigations have found that school districts have placed children with English language difficulties or cultural differences in special education programs without properly evaluating their skills.

We are also submitting, as an addendum to this statement, a report that presents statistical analyses of enrollment in special education programs.

To enforce section 504, OCR investigates complaints of discrimination, conducts reviews of HEW-funded recipients to determine whether they are complying with the nondiscrimination provisions, and provides technical assistance to help recipients comply with the regulation on a voluntary basis.

Since fiscal year 1976, OCR has received 3,867 section 504 complaints. More than 1,560 of the section 504 complaints alleged discrimination in elementary and secondary education programs.

The Office for Civil Rights has resolved 1,435 elementary and secondary education complaints. In 521 of these cases, OCR found section 504 violations and the school districts agreed to take corrective action. OCR found complaints to be invalid in 467 cases. OCR lacked jurisdiction to investigate 107 of the complaints, and in the remaining 340 cases, the complaints were referred to another agency, withdrawn, or closed out for other administrative reasons.

The complaints raised a wide range of significant issues, such as alleged discriminatory placement in special education; exclusion of handicapped students from programs or facilities; the failure to provide procedural safeguards to insure that parents or guardians have a voice in decisions regarding the identification and evaluation of students who may need special services; and the lack of comparability in curricula or programs provided for handicapped students. In addition, 69 complaints alleged employment discrimination.

We estimate that since the beginning of fiscal year 1979, 3,628 handicapped persons have benefited directly from OCR's complaint investigation activity in the elementary and secondary education area. The corrective changes will, moreover, work to the advantage of other handicapped students and employees in the future.

In fiscal year 1979, OCR initiated 89 onsite compliance reviews of school systems that addressed, at least in part, section 504 compliance issues. The purpose of the reviews is to determine whether the school districts have taken appropriate steps to make their education programs accessible to handicapped students and to meet other requirements of the regulation.

During the past 2 years, OCR and the Bureau of Education for Handicapped have jointly financed and managed technical assistance contracts to develop explanatory materials for school districts; to train school superintendents, principals, and parents in the requirements of section 504 and the Education for All Handicapped Children Act; and to provide expert advice in resolving specific compliance problems.

During the past 2 years, OCR and the Bureau of Education for Handicapped have jointly financed and managed technical assistance contracts to develop explanatory materials for school districts; to train school superintendents, principals, and parents in the requirements of

section 504 and the Education for All Handicapped Children Act; and to provide expert advice in resolving specific compliance problems.

OCR has also funded projects to develop policy positions on section 504 compliance issues and to enhance the professional opportunities for disabled persons in elementary and secondary education. In addition, we have organized regional technical assistance offices that provide information and direct assistance to HEW-funded recipients, including local school districts.

Title VI prohibits school districts from discriminating against minority and national origin group students. Many of the standards and procedures designed to protect handicapped students are similar to those that may be required to remedy discrimination against minority students who are improperly assigned to special education programs.

Under title VI, a disproportionate over-inclusion of minority students in special education programs may indicate that a school district is not utilizing proper criteria or methods of referral, placement or treatment. Where over-inclusion exists, a title VI violation may be established if a school has failed to adopt procedures to insure that criteria for placement of students in special education programs are uniform and nondiscriminatory, that parents have a voice in decisions regarding the identification and evaluation of a student's education needs, that tests and other assessment devices are selected and administered in a nondiscriminatory manner, that each student is assessed individually and he or she is assigned to a program designed to meet those individually identified needs, and that students enrolled in special education are reevaluated on a regular basis.

Under the Emergency School Aid Act, school districts may apply for funds to support desegregation plans or plans designed to eliminate or reduce racial isolation.

The ESAA statute and regulation impose nondiscrimination requirements that are consistent with title VI standards. Racially or ethnically identifiable ability groups, tracks, or special education classes that cannot be justified educationally are presumed to be discriminatory. If such a finding is made, the school district is ineligible for ESAA funds.

A district found to be ineligible may apply for a waiver of ineligibility if the district corrects the violation by either eliminating the racial identifiability of the classes or by reevaluating the students assigned to these classes on the basis of objective, nondiscriminatory criteria and procedures.

Since the ESAA program was enacted, OCR has conducted pregrant reviews of applicant school districts to insure compliance with the nondiscrimination standards.

Between fiscal year 1975 and fiscal year 1979, 522 school districts were declared ineligible for ESAA funds because of civil rights violations. In 148 of these cases, OCR found overrepresentation of minority students in special education classes that could not be justified educationally. One hundred and eighteen of the 148 districts applied for and were granted waivers of ineligibility after having remedied the discriminatory assignments.

To illustrate the pattern, it may be helpful to examine two ESAA ineligibility cases and the remedies that were adopted by the school districts in order to qualify for ESAA grants.

A large school system operated a program for the educable mentally retarded with an enrollment that was 69 percent black, whereas the black student ratio in the school district stood at 25 percent.

Information provided by the district showed that 138 students enrolled in the program had not been reevaluated by a psychologist within the past 3 years, as required by State guidelines.

OCR found that the racially identifiable EMR class could not be justified on educational grounds, and hence the district was declared ineligible for ESAA funds.

To qualify for a waiver of ineligibility, the district retested and reevaluated the 138 students. The district agreed to procedures for reevaluating all students on a regular basis. The district's plan also requires that every student assigned to EMR classes receive transitional services such as counseling and tutoring.

In another case, OCR found that a school district had assigned 1,697 students to EMR classes, of whom 1,254 students, or 74 percent, were black. The district's overall black student ratio was 47 percent. Among other facts brought out during the review of the district's ESAA application, OCR found that many of the students assigned to EMR classes had never received an examination to detect visual or auditory problems.

In some cases, assignment was based, in part, on outdated IQ test scores. Also, many students were assigned to EMR classes even though their IQ test scores were above the EMR range of 50 to 75.

To correct the compliance problem, and qualify for ESAA funds, school officials agreed to a comprehensive plan under which the district retested all EMR students whose IQ scores were more than 3 years old, completed vision and hearing screening for all EMR students, and removed from EMR classification students whose IQ scores were above 75.

In addition, the district increased the staff of psychological examiners, and adopted an adaptive behavior instrument for each child referred for psychological testing who is suspected of being mentally retarded. Principals and psychological examiners were instructed not to test students until vision and hearing tests had been administered and the ABI had been completed. Students will be reevaluated in the early fall of the third year after their prior test.

The district also developed a plan for transitional services to enable the students who were reclassified to participate meaningfully in the regular educational program.

Finally, Mr. Chairman, we are submitting a statistical report covering student enrollment in special education programs, mainstreaming, and the identification of handicapped students. The sources of the data are the 1976-77 and 1978-79 OCR school civil rights surveys. As indicated in the report, some of the data used in the analyses are preliminary and unedited.

[Material submitted by Mr. Cheatham follows:]



## USERS' GUIDE

TABLE 9

STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN  
SPECIAL EDUCATION BY RACE/ETHNICITY AND SEX

Table 9 presents state and national estimates of special education enrollment by type of program, race/ethnicity, and sex. For each state and for the nation as a whole, 13 rows of data are displayed:

1. ENROLLMENT - Basic school enrollment on or about January 7, 1977 as reported on the OS/CR 101 Form, Item 8a.
2. EMR/EMH - Number of pupils enrolled in programs for the educable mentally retarded as reported on the OS/CR 102 Form, Item 19a.
3. THR/THH - Number of pupils enrolled in programs for the trainable mentally retarded as reported on the OS/CR 102 Form, Item 19b.
4. SERIOUSLY EMOTIONALLY DISTURBED - Number of pupils enrolled in programs for the seriously emotionally disturbed as reported on the OS/CR 102 Form, Item 19c.
5. LEARNING DISABLED - Number of pupils enrolled in programs for the specific learning disabled as reported on the OS/CR 102 Form, Item 19d.
6. SPEECH IMPAIRED - Number of pupils enrolled in programs for the speech impaired as reported on the OS/CR 102 Form, Item 19e.
7. ORTHO HANDICAPPED - Number of pupils enrolled in programs for the orthopedically handicapped as reported on the OS/CR 102 Form, Item 19f.
8. BLIND/VISUALLY IMPAIRED - Number of pupils enrolled in programs for the blind or visually impaired as reported on the OS/CR 102 Form, Item 19g.
9. DEAF/HARD OF HEARING - Number of pupils enrolled in programs for the deaf or hard of hearing as reported on the OS/CR 102 Form, Item 19h.
10. OTHER HEALTH IMPAIRED - Number of pupils enrolled in programs for the other health impaired as reported on the OS/CR 102 Form, Item 19i.
11. MULTIHANDICAPPED - Number of pupils enrolled in programs for the multihandicapped as reported on the OS/CR 102 Form, Item 19j.
12. TOTAL (ABOVE) - Computed total of rows 2 through 11 above (this total may not agree with the reported total given for Item 15k of the OS/CR 102 Form).
13. GIFTED OR TALENTED - Number of pupils enrolled in programs for the gifted or talented as reported on the OS/CR 102 Form, Item 19l.

Instructions for Item 19 of the OS/CR 102 Form indicate that pupils were to be counted only once in the program in which they spent the most time. Hence, the figures presented represent an unduplicated count of pupils enrolled in special education.

The first row, containing data obtained from the OS/CR 101 Form, presents actual reported data. The remaining rows, containing data obtained from the OS/CR 102 Form, present projections.

In the report which follows, national totals are given first followed by state totals. The data is displayed by racial/ethnic categories:

- American Indian or Alaskan Native (AMER INDIAN)
- Asian or Pacific Islander (ASIAN AMER)
- Black, not of Hispanic Origin (BLACK)
- White, not of Hispanic Origin (WHITE)
- Hispanic (HISPANIC)

Definitions of these racial/ethnic categories are given on page 1 of the OS/CR 101 Form.

The racial/ethnic categories are followed by a category labelled TOTAL. The totals displayed were computed by summing across the racial/ethnic categories and do not necessarily reflect the totals as reported on the survey forms.

The final two columns display the data by sex. It should be noted that the sum of male and female may not equal total because of reporting errors.

Within each category of race/ethnicity, total, or sex, there are two columns. The first column labelled NUMBER is an actual count of pupils. The second column, labelled PCT OF TOT, expresses this count as a percentage of the row total. Hence, for the rows labelled ENROLLMENT, the first column displays the number of American Indians enrolled while the second column displays this number as a percentage of total enrollment. Similarly, for the

rows labelled EMR/EN, the first column displays the number of American Indians who are enrolled in programs for the educable mentally retarded while the second column displays this number expressed as a percentage of all EMR pupils. All percentages are rounded to the nearest whole number. A percentage of less than 1/2 of 1% (.5%) will appear as zero (0).

Referring to page 1 of the report it can be seen that for the nation there was a total of 43,713,809 pupils. Of these, 368,262 or approximately 1% ( $368,262 \div 43,713,809 \times 100$ ) were American Indians. The total number of pupils enrolled in programs for the educable mentally retarded was 661,169. Of these pupils 6,532 or approximately 1% were American Indians; 2,127, or approximately 0% (less than .5%) were Asian; 401,835, or approximately 61%, were male, etc.

The major data problems affecting this report involved the state of Massachusetts. Massachusetts does not classify special education pupils by the programs specified. Hence, most districts in Massachusetts did not provide a breakdown of special education pupils by the type of program they were enrolled in. These districts were not, therefore, included in this report and the totals given for Massachusetts are meaningless.

TABLE 9

State and National Estimates of Participation in Special Education by Race/Ethnicity and Sex. Data taken from fall 1976 Elementary and Secondary Schools Civil Rights Survey

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PC2 OF NUMBER	TOT	PC2 OF NUMBER	TOT	PC1 OF NUMBER	TOT	PC2 OF NUMBER	TOT	PC1 OF NUMBER	TOT	PC2 OF NUMBER	TOT	PC1 OF NUMBER	TOT	PC1 OF NUMBER	TOT
<b>NATIONAL TOTALS</b>																
ENROLLMENT	368763	1	632156	1	8773695	13	3329249	78	2607453	8	42712008	100	23301458	51	21017331	43
EMR/TMR	6623	1	2122	0	248707	36	221376	56	31427	5	461189	100	401836	81	747236	36
EMR/TMR	706	1	819	1	26099	27	81816	64	6635	7	96182	100	22017	55	40183	43
SERIOUS EMOTIONALLY DISTURB	1063	1	418	0	29295	23	85463	70	8904	8	127225	100	86258	71	75897	31
LEARNING DISABLED	11897	1	5248	1	125728	14	682095	77	85011	7	803778	100	827363	73	265004	26
SPEECH IMPAIRED	8283	1	10162	1	118183	13	605360	77	48603	8	786814	100	486610	63	291365	21
ORIND HANDICAPPED	226	1	98	1	8242	9	20461	87	2067	10	20462	100	16079	52	12560	41
BLIND/VISUALLY IMPAIRED	80	1	106	1	7875	23	6730	64	863	7	12756	100	7524	69	4862	26
DEAF/HARD OF HEARING	403	2	558	2	5584	18	26191	73	2120	9	25856	100	16700	37	16778	42
OTHER HEALTH IMPAIRED	172	2	237	1	7307	25	15308	63	2420	8	29509	100	16107	48	14294	48
MULTIHANDICAPPED	783	2	232	1	7515	24	20567	65	2008	2	21569	100	17489	25	10647	24
(0186 (ABOVE)	24813	1	20377	1	278743	31	1001305	71	172363	8	2886401	100	1720188	83	210776	24
GIFTED OR TALENTED	1856	0	22072	2	21712	8	246480	86	11242	2	403060	100	297820	45	206037	61
<b>ALABAMA</b>																
ENROLLMENT	7025	0	907	0	256398	36	468769	64	118	0	737619	100	290447	52	267123	48
EMR/TMR	24	0	0	0	14660	83	10198	20	4	0	26054	100	12623	82	8294	25
EMR/TMR	3	0	4	0	1906	58	1211	47	1	0	2915	100	1874	57	1225	43
SERIOUS EMOTIONALLY DISTURB	0	0	1	0	112	23	373	44	1	0	227	100	270	80	87	20
LEARNING DISABLED	3	0	2	0	1053	31	4007	79	2	0	5069	100	2711	73	1250	77
SPEECH IMPAIRED	0	0	83	1	2423	28	5320	68	8	0	7269	100	4056	43	2894	27
ORIND HANDICAPPED	0	0	0	0	53	33	112	41	0	0	187	100	89	52	76	47
BLIND/VISUALLY IMPAIRED	0	0	1	7	38	45	22	52	0	0	93	100	24	22	28	45
DEAF/HARD OF HEARING	0	0	0	0	791	22	211	97	2	1	214	100	158	60	166	50
OTHER HEALTH IMPAIRED	0	0	0	0	5	14	31	80	0	0	26	100	20	16	16	41
MULTIHANDICAPPED	0	0	0	0	74	23	283	77	0	0	216	100	194	68	122	42
TOTAL (ABOVE)	48	0	78	0	72217	51	21476	49	19	0	42841	100	28421	93	18258	22
GIFTED OR TALENTED	3	0	8	0	850	20	2244	80	0	0	2804	100	1222	48	1471	52

SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS

STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL	MALE *		FEMALE *		
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
ALASKA																
ENROLLMENT	18259	20	1332	1	2603	2	68300	24	867	1	89295	100	48348	53	47847	48
EMR/EMH	443	91	8	1	54	8	267	42	6	1	880	100	812	58	268	43
EMR/IMI	89	26	5	1	15	2	141	66	1	0	313	100	110	81	105	49
SERIOUS EMOTIONALLY DISTURB	89	44	4	2	5	2	107	51	0	0	307	100	137	58	65	22
LEARNING DISABLED	1653	27	24	1	170	4	2486	92	54	1	4231	100	2682	58	1270	21
SPEECH IMPAIRED	230	12	89	8	54	2	1289	22	40	2	1632	100	1160	81	192	24
ORTH HANDICAPPED	28	42	0	0	4	2	37	46	0	0	69	100	34	58	26	42
BLIND/VISUALLY IMPAIRED	12	42	0	0	0	0	18	50	0	0	31	100	19	81	12	39
DEAF/HARD OF HEARING	118	46	1	0	5	2	129	50	2	1	250	100	138	33	112	48
OTHER HEALIN IMPAIRED	42	25	1	2	1	2	12	21	0	0	54	100	38	54	18	27
MULTI HANDICAPPED	20	41	0	0	2	2	42	57	0	0	74	100	39	52	35	47
TOTAL (ABOVE)	2782	34	128	2	334	4	4703	38	103	1	8020	100	5189	54	2832	26
GIFTED OR TALENTED	122	12	18	2	11	2	895	28	5	1	222	100	364	48	281	52
ARIZONA																
ENROLLMENT	30603	8	2743	1	18243	4	232268	68	101883	21	491544	100	252286	81	239258	49
EMR/EMH	818	14	25	0	852	10	3224	48	1827	28	8307	100	2912	56	2289	43
EMR/IMI	42	4	29	2	80	5	820	44	229	25	1291	100	214	55	222	45
SERIOUS EMOTIONALLY DISTURB	262	8	2	0	142	8	7499	22	232	10	3348	100	2560	80	854	20
LEARNING DISABLED	2878	18	94	0	825	8	12857	44	2538	18	20108	100	14722	21	6826	29
SPEECH IMPAIRED	880	5	243	2	886	5	8374	67	2726	21	12818	100	7128	60	5008	40
ORTH HANDICAPPED	38	18	3	1	5	2	122	40	20	10	194	100	118	89	60	41
BLIND/VISUALLY IMPAIRED	27	19	1	1	10	5	120	61	30	19	199	100	129	62	72	22
DEAF/HARD OF HEARING	83	12	5	1	24	1	295	42	60	18	427	100	239	58	189	44
OTHER HEALIN IMPAIRED	9	2	0	0	7	4	148	81	25	14	183	100	65	26	118	82
MULTI HANDICAPPED	88	22	2	1	10	4	151	64	52	19	261	100	204	22	27	22
TOTALS (ABOVE)	4938	11	272	1	2227	9	28871	63	8960	20	45432	100	29982	58	18481	34
GIFTED OR TALENTED	300	2	172	2	180	2	9203	86	830	8	10683	100	5428	81	8258	49

\* SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS



STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1975 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE		
	PCI OF NUMBER	101	PCI OF NUMBER	101	PCI OF NUMBER	101	PCI OF NUMBER	101	PCI OF NUMBER	101	PCI OF NUMBER	101	PCI OF NUMBER	101	PCI OF NUMBER	101	
ARIZONA																	
ENROLLMENT		1822	0	830	0	102228	22	249669	27	262	0	455181	100	233422	51	221248	49
EMR/EMI	1	0	0	0	0	5309	25	4984	44	12	0	11215	100	2210	64	4106	26
EMR/EMI	1	0	0	0	0	206	32	242	63	0	0	534	100	222	60	272	40
SERIOUS EMOTIONALLY DISTURB	2	1	0	0	0	97	22	223	22	0	0	222	100	212	62	105	23
LEARNING DISABLED	18	0	40	1	831	18	4224	52	14	0	5118	100	2622	21	1496	29	
SPEECH IMPAIRED	8	0	50	1	1278	22	4234	26	24	1	8205	100	2282	61	2296	39	
DEAF/HANDICAPPED	0	0	0	0	14	24	45	28	0	0	59	100	28	81	33	29	
BLIND/VISUALLY IMPAIRED	0	0	0	0	2	19	12	81	0	0	18	100	411	49	8	21	
DEAF/HAND OF HEARING	0	0	1	0	15	2	192	93	0	0	219	100	122	61	51	28	
OTHER HEALTH IMPAIRED	0	0	0	0	4	40	6	60	0	0	10	100	10	100	0	0	
MULTIHANDICAPPED	1	4	0	0	5	23	18	25	0	0	24	100	17	21	2	39	
TOTAL (ABOVE)	26	0	81	0	8842	32	14807	62	65	0	23840	100	18222	64	8143	35	
GIFTED OR TALENTED	4	5	0	0	23	35	39	58	2	2	63	100	22	42	36	62	
CALIFORNIA																	
ENROLLMENT		81292	1	183012	4	431252	10	2906369	55	881684	20	4213926	100	2204281	51	2108645	48
EMR/EMI	182	1	428	2	5424	18	18261	58	5312	30	28122	100	16208	56	12414	44	
EMR/EMI	21	0	225	2	950	15	2820	61	1239	31	6518	100	2568	53	2052	45	
SERIOUS EMOTIONALLY DISTURB	3	0	58	2	254	12	3019	68	503	12	4282	100	3492	80	2661	20	
LEARNING DISABLED	218	1	1000	1	8492	8	24422	26	12380	14	87901	100	23624	25	24566	25	
SPEECH IMPAIRED	114	1	2321	9	6942	8	55114	45	13002	20	84006	100	52240	42	22465	38	
DEAF/HANDICAPPED	56	1	229	4	440	15	2422	50	1262	19	3425	100	2411	59	2412	41	
BLIND/VISUALLY IMPAIRED	2	0	44	2	182	10	1400	22	204	15	1915	100	1125	59	201	41	
DEAF/HAND OF HEARING	12	0	429	4	245	9	2222	68	242	13	4000	100	6048	51	1052	40	
OTHER HEALTH IMPAIRED	56	1	182	2	1419	14	2105	20	1234	12	10105	100	4820	46	5425	54	
MULTIHANDICAPPED	10	1	29	2	200	12	1107	69	282	12	1628	100	1022	62	604	22	
TOTAL (ABOVE)	1862	1	6280	2	25522	10	189563	58	42052	12	245129	100	180922	68	84182	34	
GIFTED OR TALENTED	500	0	9953	5	5209	4	125510	85	2821	5	160635	100	80830	60	20288	50	

SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS

STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX  
DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		LESIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT	NUMBER	PCI OF TOT
COLORADO																
ENROLLMENT	2183	1	5527	1	23228	4	442930	80	81308	1A	561252	100	286718	51	275021	48
EM/EMI	19	0	21	0	638	13	2839	82	1146	25	4583	100	2602	52	1952	43
TM/TMI	2	1	2	1	8	5	139	80	33	13	124	100	91	55	28	45
SERIOUS EMOTIONALLY DISTURB	2	0	14	2	211	8	7007	79	298	12	7537	100	1840	73	873	27
LEARNING DISABLED	82	1	80	0	977	6	12127	24	2764	17	16025	100	11250	71	4677	29
SPEECH IMPAIRED	28	0	115	1	581	4	8556	22	1415	17	9423	100	5052	60	2416	40
ORIGIN HANDICAPPED	1	0	2	1	42	10	327	78	55	14	422	100	240	58	192	48
BLIND/VISUALLY IMPAIRED	1	1	1	1	2	4	141	77	34	18	188	100	122	20	50	20
DEAF/HARD OF HEARING	9	2	8	1	33	4	481	81	49	13	542	100	300	58	248	45
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	32	92	1	3	38	100	10	50	10	50
MULTIHANDICAPPED	8	1	4	0	180	18	558	81	178	20	909	100	415	68	294	32
TOTAL (MOVET)	158	0	248	1	3226	2	25121	34	5968	18	23882	100	22720	68	11621	34
GIFTED OR TALENTED	0	0	2	0	18	2	925	24	182	22	843	100	414	49	427	51
CONNECTICUT																
ENROLLMENT	842	0	2856	0	81629	10	818042	85	29014	5	813023	100	311326	51	301242	48
EM/EMI	4	0	2	0	1425	30	3758	52	930	12	4430	100	2800	57	2070	43
TM/TMI	2	0	10	1	152	13	1052	28	100	8	1224	100	682	58	627	44
SERIOUS EMOTIONALLY DISTURB	2	0	3	0	804	30	1671	82	187	2	2682	100	2112	29	855	21
LEARNING DISABLED	14	0	25	0	1806	13	11504	42	712	5	14142	100	10342	72	2704	22
SPEECH IMPAIRED	8	0	58	1	835	4	9389	80	412	4	10604	100	6827	64	2277	36
ORIGIN HANDICAPPED	0	0	0	0	94	30	169	53	51	18	316	100	113	36	203	84
BLIND/VISUALLY IMPAIRED	0	0	0	0	42	31	150	22	14	7	207	100	128	45	22	35
DEAF/HARD OF HEARING	0	0	1	0	14	2	300	85	28	8	353	100	202	50	144	41
OTHER HEALTH IMPAIRED	1	0	0	0	181	55	99	24	22	8	273	100	41	25	213	28
MULTIHANDICAPPED	0	0	0	0	20	15	418	22	42	0	521	100	364	69	160	31
TOTAL (MOVET)	31	0	100	0	5425	18	22308	28	3214	8	22708	100	23683	67	11544	32
GIFTED OR TALENTED	0	0	21	0	150	8	3183	94	19	1	3403	100	1621	48	1282	52

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
DELAWARE																
ENROLLMENT	185	0	751	1	27128	72	92116	28	1878	1	121187	100	62888	32	58878	48
EMR/ENR	0	0	0	0	1251	88	654	41	32	1	2107	100	1203	32	903	42
EMR/ENR	0	0	1	0	282	33	533	65	10	1	848	100	481	54	368	46
SEVERE EMOTIONALLY DISTURB	0	0	0	0	300	13	1618	90	15	1	2061	100	1679	22	682	28
LEARNING DISABLED	2	0	8	0	1207	26	3401	23	53	1	4621	100	3355	23	1277	21
SPEECH IMPAIRED	0	0	21	1	240	16	1332	82	20	1	1530	100	1004	65	531	33
DEAF/HANDICAPPED	0	0	0	0	50	18	317	26	10	4	227	100	143	52	134	48
BLIND/VISUALLY IMPAIRED	0	0	0	0	4	22	14	28	0	0	18	100	10	56	8	44
DEAF/HAND OF HEARING	1	1	1	1	28	18	132	35	8	5	162	100	95	32	77	18
OTHER HEALTH IMPAIRED	0	0	0	0	58	38	32	81	1	1	152	100	112	78	40	28
MULTIHANDICAPPED	0	0	0	0	53	33	107	84	2	1	159	100	123	67	60	29
TOTAL (ADOVE)	3	0	31	0	2654	30	8361	63	142	1	11991	100	7991	62	3999	33
GIFTED OR TALENTED	0	0	2	1	120	23	308	25	3	1	328	100	245	46	284	34
DIST OF COLUMBIA																
ENROLLMENT	73	0	698	1	118963	95	4293	4	963	1	125058	100	62832	50	62561	50
EMR/ENR	0	0	0	0	467	93	4	1	0	0	811	100	224	89	142	31
EMR/ENR	0	0	3	0	723	96	19	2	2	1	264	100	460	60	304	40
SEVERE EMOTIONALLY DISTURB	0	0	0	0	240	94	6	3	0	0	246	100	182	73	59	34
LEARNING DISABLED	0	0	3	0	989	91	43	8	12	1	1046	100	732	27	294	28
SPEECH IMPAIRED	0	0	2	1	593	37	11	2	0	0	611	100	383	62	232	38
DEAF/HANDICAPPED	0	0	0	0	142	91	8	3	0	0	152	100	81	53	71	47
BLIND/VISUALLY IMPAIRED	0	0	0	0	69	89	5	9	1	2	35	100	28	21	16	29
DEAF/HAND OF HEARING	0	0	1	2	53	94	1	2	0	0	55	100	32	48	28	51
OTHER HEALTH IMPAIRED	0	0	0	0	28	96	3	4	0	0	81	100	27	46	44	54
MULTIHANDICAPPED	0	0	0	0	33	100	0	0	0	0	33	100	20	61	13	39
TOTAL (ADOVE)	0	0	16	0	3200	96	90	3	20	1	3320	100	2212	65	1308	34
GIFTED OR TALENTED	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
FLORIDA	1998	0	4871	0	351725	73	1076964	70	99163	4	1556838	100	737203	48	790433	52
ENROLLMENT																
EMR/EMI	8	0	8	0	18615	53	3060	30	770	3	23681	100	44387	61	9309	28
EMR/EMI	7	0	8	0	1750	32	7586	55	243	2	4687	100	2687	37	2600	43
SERIOUS EMOTIONALLY DISTURB	12	0	5	0	2078	34	5840	53	258	4	5181	100	4945	80	1743	30
LEARNING DISABLED	22	0	34	0	2728	77	18725	66	2047	7	78560	170	27126	77	6434	77
SPEECH IMPAIRED	51	0	303	1	10047	36	22517	60	1877	5	25195	100	22606	63	17169	37
ORTH HANDICAPPED	0	0	7	0	830	43	1006	52	101	5	1947	100	766	39	1181	61
BLIND/VISUALLY IMPAIRED	1	0	7	0	164	78	298	66	34	8	603	100	374	62	729	28
DEAF/HARD OF HEARING	2	0	10	1	443	74	1217	66	175	10	1844	100	1017	55	822	46
OTHER HEALTH IMPAIRED	0	0	1	0	170	75	463	77	14	7	658	100	243	51	226	49
MULTIHANDICAPPED	7	0	8	0	900	53	1808	63	165	5	3044	100	1955	64	1051	36
TOTAL (ABOVE)	112	0	381	0	40007	37	60723	57	5783	5	107001	100	71158	47	35823	52
DEIFIED OR TALENTED	29	0	148	1	714	4	17291	57	362	7	18043	100	9415	50	8005	43
GEORGIA	547	0	2717	0	371255	25	487730	65	2013	0	1060813	100	548253	51	820460	48
ENROLLMENT																
EMR/EMI	4	0	8	0	21455	69	8644	21	18	0	21158	100	18750	63	51424	57
EMR/EMI	0	0	1	0	1715	43	1257	41	3	0	2474	100	1437	58	1029	42
SERIOUS EMOTIONALLY DISTURB	0	0	4	0	1437	36	7627	64	4	0	4087	100	3119	76	664	74
LEARNING DISABLED	2	0	29	0	4767	27	15098	73	27	0	17817	100	13158	73	4758	27
SPEECH IMPAIRED	1	0	109	0	8647	34	16340	65	31	0	25128	100	16257	65	8877	35
ORTH HANDICAPPED	0	0	7	1	64	21	141	68	0	0	208	100	128	61	82	39
BLIND/VISUALLY IMPAIRED	0	0	0	0	188	43	253	52	1	0	447	100	205	64	166	28
DEAF/HARD OF HEARING	0	0	2	0	267	30	671	70	5	0	808	100	458	59	430	48
OTHER HEALTH IMPAIRED	0	0	0	0	441	40	459	60	0	0	1100	100	765	70	334	30
MULTIHANDICAPPED	0	0	3	0	275	34	376	68	0	0	806	100	617	68	760	37
TOTAL (ABOVE)	7	0	158	0	38798	46	45185	64	78	0	61305	100	55903	68	28218	34
DEIFIED OR TALENTED	7	0	105	0	7603	9	75010	50	28	0	27748	100	13128	47	14618	53

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT	PCI OF NUMBER TOT	OF TOT
MALE																
ENROLLMENT	425	0	13446	72	2098	1	35560	29	10929	8	173693	100	88163	51	85520	48
EMR/EMH	0	0	968	58	3	0	836	22	144	5	1621	100	1062	62	614	72
THU/THI	0	0	388	65	1	0	122	28	29	8	481	100	366	50	105	42
SERIOUS EMOTIONAL DISTURB	0	0	67	45	2	2	60	43	8	6	122	100	104	82	22	16
LEARNING DISABLED	0	0	2260	51	12	0	1800	41	343	8	4434	100	3311	75	1123	25
SPEECH IMPAIRED	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OHINO (HANDICAPPED)	0	0	27	55	0	0	47	24	15	11	129	100	87	62	52	32
BLIND/VISUALLY IMPAIRED	0	0	23	57	1	2	18	38	1	2	40	100	33	57	12	42
DEAF/HARD OF HEARING	0	0	164	68	1	0	52	72	10	8	238	100	142	61	85	39
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MULTIHANDICAPPED	0	0	58	72	0	0	16	20	2	8	81	100	44	54	27	46
TOTAL (ABOVE)	0	0	3028	55	20	0	2649	32	594	8	2188	100	5035	70	2154	30
GIFTED OR TALENTED	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FEMALE																
ENROLLMENT	3081	2	1283	1	489	0	184442	94	8484	3	182269	100	101373	61	96306	49
EMR/EMH	48	3	4	0	5	0	1428	83	81	4	1582	100	924	58	858	41
THU/THI	5	2	0	0	3	1	269	86	3	1	278	100	145	67	125	48
SERIOUS EMOTIONAL DISTURB	8	3	0	0	0	0	204	86	4	1	208	100	112	72	82	38
LEARNING DISABLED	180	3	16	0	22	0	5611	83	248	4	6067	100	4099	68	1963	32
SPEECH IMPAIRED	44	1	28	1	1	0	2828	83	145	5	3081	100	1902	62	1184	38
OHINO (HANDICAPPED)	0	0	0	0	0	0	21	100	0	0	21	100	42	81	28	41
BLIND/VISUALLY IMPAIRED	0	0	0	0	0	0	85	100	0	0	85	100	62	77	25	29
DEAF/HARD OF HEARING	0	0	0	0	0	0	128	94	8	8	142	100	78	52	71	48
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	105	100	0	0	105	100	85	46	69	54
MULTIHANDICAPPED	2	30	0	0	1	3	28	71	2	8	35	100	24	88	11	31
TOTAL (ABOVE)	870	3	48	0	38	0	11018	93	488	4	11841	100	7608	64	4254	28
GIFTED OR TALENTED	10	1	34	3	3	0	1488	87	4	0	1538	100	802	62	722	48

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE +		FEMALE +	
	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101
ENROLLMENT	4171	0	17845	1	433273	30	1618403	75	105162	5	2211015	100	1127110	51	1003163	49
EMR/EMI	20	0	62	0	16100	45	17905	50	1678	5	33754	100	71497	60	14257	40
EMR/EMI	6	0	15	0	1339	34	7323	60	717	5	3494	100	2178	56	1178	44
SERIOUS EMOTIONALITY DISTURB	70	0	41	0	7548	75	8040	71	504	4	14053	100	10400	74	3653	26
LEARNING DISABLED	81	0	164	0	9065	15	49404	00	7737	4	61423	100	44441	77	17022	28
SPEECH IMPAIRED	65	0	633	1	6750	11	45471	43	3460	5	54847	100	34106	57	20741	38
ORING HANDICAPPED	2	0	15	1	678	11	1000	64	177	9	1946	100	1117	57	850	43
BLIND/VISUALLY IMPAIRED	1	0	6	0	414	34	677	54	102	8	1200	100	718	60	481	40
DEAF/HARD OF HEARING	7	0	34	1	706	18	7063	75	233	5	3436	100	2071	54	1764	46
OTHER HEALTH IMPAIRED	0	0	1	0	406	42	513	63	40	3	977	100	481	48	531	55
MULTIHANDICAPPED	0	0	3	0	767	75	7215	63	181	6	3307	100	1105	66	1097	34
TOTAL (ABOVE)	186	0	376	1	39328	72	132365	73	8344	5	161199	100	110074	64	63174	34
OFFERED OR IDENTIFIED	6	0	404	1	4917	16	73997	90	378	7	30048	100	14157	47	15897	53
INDIANA																
ENROLLMENT	1367	0	3215	0	117854	70	1018507	89	15063	1	1160028	100	587476	51	562850	49
EMR/EMI	17	0	10	0	5776	27	14772	21	181	1	18217	100	13348	53	7349	37
EMR/EMI	0	0	11	0	509	17	7354	60	61	2	2968	100	1770	58	1345	47
SERIOUS EMOTIONALITY DISTURB	0	0	0	0	200	26	570	75	5	1	725	100	516	60	146	20
LEARNING DISABLED	6	0	7	0	508	12	4239	07	28	0	4993	100	3900	76	1072	23
SPEECH IMPAIRED	8	0	178	1	7321	10	20418	07	507	7	72378	100	14947	64	6454	36
ORING HANDICAPPED	0	0	0	0	76	17	317	02	2	7	454	100	754	54	202	44
BLIND/VISUALLY IMPAIRED	0	0	0	0	25	74	113	71	8	7	160	100	99	61	43	39
DEAF/HARD OF HEARING	0	0	1	0	103	11	790	07	15	7	917	100	547	50	370	40
OTHER HEALTH IMPAIRED	0	0	0	0	7	19	9	07	0	0	11	100	5	40	6	56
MULTIHANDICAPPED	1	0	7	0	164	13	767	81	2	1	940	100	810	53	450	47
TOTAL (ABOVE)	74	0	164	0	5233	17	42046	81	871	7	54760	100	34874	64	18336	26
OFFERED OR IDENTIFIED	0	0	3	1	78	17	563	87	1	0	848	100	200	46	349	54

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT	PCI OF NUMBER	OF TOT
ENROLLMENT	1622	0	2502	0	11130	2	529181	37	2630	1	500955	100	305450	51	282105	44
EMR/EMI	18	0	12	0	211	6	2212	93	62	1	8516	100	4611	54	3222	28
TM/IMI	1	0	2	0	40	2	1252	98	8	1	1404	100	640	48	512	36
SERIOUS EMOTIONALLY DISTURB	6	1	0	0	62	1	900	92	4	0	652	100	359	89	168	18
LEARNING DISABLED	68	0	14	0	109	2	11249	92	23	1	18085	100	12303	68	4844	22
SPEECH IMPAIRED	6	0	30	0	93	2	4001	97	31	1	6164	100	3084	62	2202	32
OTHER HANDICAPPED	0	0	2	1	12	4	296	95	0	0	211	100	119	28	97	21
BLIND/VISUALLY IMPAIRED	0	0	2	4	2	3	70	83	0	0	25	100	42	56	21	28
DEAF/HARD OF HEARING	2	0	2	2	12	3	420	94	4	1	445	100	208	46	161	26
OTHER HEALTH IMPAIRED	0	0	0	0	22	24	69	25	1	1	92	100	9	10	92	90
MULTIHANDICAPPED	2	0	0	0	11	2	498	92	4	1	612	100	200	58	192	36
TOTAL ABOVE	106	0	72	0	1121	2	54099	94	202	1	26540	100	22222	62	11075	22
OUTLIED OR EXEMPTED	0	0	2	1	18	2	706	94	6	1	234	100	406	55	228	45
KANSAS																
ENROLLMENT	2850	1	2600	1	22428	2	405526	89	10630	2	454104	100	212821	49	236212	52
EMR/EMI	85	1	5	0	1018	18	5169	78	228	4	8520	100	3946	60	3607	40
TM/IMI	2	0	2	0	109	9	992	86	42	4	1150	100	660	82	496	43
SERIOUS EMOTIONALLY DISTURB	8	1	2	0	152	18	690	92	12	2	642	100	682	29	112	20
LEARNING DISABLED	62	1	22	0	846	8	6962	99	129	2	2232	100	5595	22	2129	28
SPEECH IMPAIRED	29	0	88	1	309	4	2026	92	214	3	2690	100	4531	59	2129	41
OTHER HANDICAPPED	0	0	0	0	2	2	68	92	0	0	100	100	29	29	21	21
BLIND/VISUALLY IMPAIRED	0	0	0	0	14	10	58	91	0	0	22	100	26	34	46	63
DEAF/HARD OF HEARING	1	0	1	0	21	2	260	84	25	8	308	100	168	65	140	45
OTHER HEALTH IMPAIRED	0	0	0	0	4	0	47	88	2	4	49	100	10	28	29	60
MULTIHANDICAPPED	1	0	0	0	29	14	114	92	2	1	211	100	125	62	85	40
TOTAL ABOVE	762	1	100	0	2287	8	21450	87	211	5	24212	100	16822	64	9814	26
OUTLIED OR EXEMPTED	8	0	28	1	102	6	1602	60	46	5	1288	100	916	51	823	49

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
KENTUCKY																
ENROLLMENT	3583	1	1608	0	42346	0	670135	00	3078	0	860131	100	354800	61	325771	46
EMR/EMR	0	0	4	0	4111	71	13960	77	2	0	18097	100	11261	82	8736	37
EMR/EMR	0	0	4	0	411	17	5005	83	4	0	2409	100	1206	51	1096	46
SERIOUS EMOTIONALLY DISTURB	0	0	0	0	721	28	703	64	0	0	814	100	490	60	134	30
LEARNING DISABLED	1	0	3	0	1173	18	5023	01	8	0	6215	100	4704	38	1517	24
SPEECH IMPAIRED	0	0	85	1	1826	10	16174	90	3	0	18905	100	10163	60	8741	40
ORTHOPEDICALLY HANDICAPPED	0	0	0	0	26	11	716	89	0	0	244	100	141	58	103	43
BLIND/VISUALLY IMPAIRED	0	0	0	0	10	17	50	83	0	0	60	100	40	67	31	38
DEAF/HARD OF HEARING	0	0	0	0	21	15	177	85	1	0	209	100	111	52	98	47
OTHER HEALTH IMPAIRED	0	0	0	0	15	11	116	85	0	0	123	100	78	56	56	47
MULTIHANDICAPPED	0	0	0	0	14	20	57	80	0	0	71	100	40	56	31	44
TOTAL (ABOVE)	1	0	88	0	7853	17	37180	83	20	0	44950	100	78474	63	18517	37
Gifted or Talented	1	0	18	1	128	8	1848	91	2	0	1004	100	811	66	874	54
LOUISIANA																
ENROLLMENT	4107	0	2182	0	336076	40	484780	58	6451	1	874056	100	427002	51	407054	48
EMR/EMR	126	1	2	0	17877	73	4628	26	83	0	17707	100	11487	85	8240	38
EMR/EMR	0	0	1	0	1477	83	850	34	8	0	7527	100	1269	58	808	47
SERIOUS EMOTIONALLY DISTURB	3	0	2	0	1047	47	1153	82	23	1	7777	100	1788	78	450	31
LEARNING DISABLED	34	0	8	0	2065	70	7731	70	87	1	10338	100	7804	78	7522	74
SPEECH IMPAIRED	71	0	185	1	8578	47	17765	54	168	1	23177	100	14000	63	6437	38
ORTHOPEDICALLY HANDICAPPED	1	0	0	0	126	42	126	84	2	1	213	100	189	84	144	66
BLIND/VISUALLY IMPAIRED	0	0	0	0	81	50	77	48	3	3	181	100	102	82	59	37
DEAF/HARD OF HEARING	1	0	1	0	716	37	355	81	6	1	576	100	274	54	764	68
OTHER HEALTH IMPAIRED	0	0	0	0	63	32	55	47	0	0	117	100	39	33	36	67
MULTIHANDICAPPED	1	0	1	0	128	43	173	63	0	0	307	100	181	60	122	40
TOTAL (ABOVE)	246	0	177	0	38567	50	27471	48	340	1	80788	100	17764	64	16512	34
Gifted or Talented	10	0	38	1	478	14	7870	85	11	0	2501	100	1708	68	1293	51

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX  
DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMERICAN INDIAN		ASIAN AMERICAN		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF
	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101
MAINE																
ENROLLMENT	732	0	245	0	638	0	238009	09	755	0	238262	100	172035	31	116778	49
EMR/EMI	3	0	3	0	12	0	7410	00	5	0	3445	100	2133	67	1313	38
EMR/EMI	0	0	0	0	7	0	410	100	0	0	417	100	318	37	104	48
SERIOUS EMOTIONALLY DISTURB	2	0	3	0	0	0	1163	100	1	0	1187	100	853	34	309	78
LEARNING DISABLED	8	0	18	0	18	0	8332	89	14	0	8381	100	4403	70	1838	30
SPEECH IMPAIRED	13	0	24	0	8	0	2314	99	8	0	2365	100	2323	81	1906	36
BLIND/HANDICAPPED	0	0	0	0	0	0	40	100	0	0	40	100	27	55	18	45
BLIND/VISUALLY IMPAIRED	0	0	0	0	0	0	40	100	0	0	40	100	20	58	20	47
DEAF/HARD OF HEARING	0	0	3	2	0	0	125	98	0	0	128	100	73	57	85	43
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	58	100	0	0	58	100	51	34	18	26
MULTIHANDICAPPED	0	0	1	0	6	7	786	87	0	0	305	100	274	73	87	37
TOTAL (ABOVE)	0	0	48	0	46	0	17007	88	26	0	17170	100	11378	66	8700	34
DIFFERENT OR TALENTED	0	0	0	0	0	0	4	100	0	0	4	100	3	50	7	50
MARYLAND																
ENROLLMENT	1894	0	9874	1	242481	28	601856	70	6018	1	867103	100	440007	31	471306	40
EMR/EMI	31	0	13	0	7073	60	4596	39	33	0	11675	100	7714	83	4383	23
EMR/EMI	4	0	11	0	1844	37	7754	87	4	0	4918	100	4688	60	1760	40
SERIOUS EMOTIONALLY DISTURB	1	0	4	0	570	70	1237	70	4	0	1318	100	1678	57	241	16
LEARNING DISABLED	38	0	110	0	18184	48	17750	81	107	0	23707	100	24008	71	18339	39
SPEECH IMPAIRED	33	0	383	7	8434	75	15448	72	136	1	21409	100	15878	63	7620	29
BLIND/HANDICAPPED	0	0	3	1	105	73	249	78	0	0	437	100	240	54	202	48
BLIND/VISUALLY IMPAIRED	0	0	0	0	173	28	145	60	2	1	309	100	203	85	107	35
DEAF/HARD OF HEARING	1	0	7	1	384	33	564	83	9	1	867	100	480	55	307	45
OTHER HEALTH IMPAIRED	0	0	7	1	107	58	37	41	0	0	186	100	103	88	84	43
MULTIHANDICAPPED	0	0	0	0	77	70	147	73	0	0	253	100	167	57	113	63
TOTAL (ABOVE)	134	0	313	1	31374	47	43743	37	783	0	73204	100	60684	87	34271	33
DIFFERENT OR TALENTED	2	0	11	1	734	35	670	46	0	0	1378	100	896	48	730	55

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# STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101	PCT OF NUMBER	101
<b>MASSACHUSETTS</b>																
ENROLLMENT	1402	0	6571	1	51705	5	970031	97	77309	7	1061995	100	574567	50	577477	50
EM/EMI	1	0	2	0	300	6	4206	90	174	4	4407	100	2114	42	1687	36
IMP/IMI	0	0	1	0	48	5	377	94	0	1	1624	100	656	62	707	79
SERIOUS EMOTIONALLY DISTURB	1	0	6	0	112	6	1460	94	15	1	1988	100	1573	62	374	19
LEARNING DISABLED	16	0	80	0	689	2	25077	97	171	0	26070	100	19386	77	2556	78
SPEECH IMPAIRED	2	0	114	1	193	2	10871	96	117	1	11253	100	2456	66	2044	34
ORIND HANDICAPPED	0	0	5	2	2	1	206	94	1	0	214	100	109	61	105	49
BLIND/VISUALLY IMPAIRED	0	0	0	0	8	4	228	94	5	2	647	100	175	56	110	45
DEAF/HARD OF HEARING	0	0	0	0	4	2	241	95	0	2	277	100	159	63	96	38
OTHER HEALTH IMPAIRED	0	0	1	0	37	2	977	96	17	1	1067	100	670	70	292	30
MULTIHANDICAPPED	0	0	8	1	0	1	485	90	2	0	496	100	784	67	217	43
TOTAL (ABOVE)	70	0	206	0	1786	3	45767	94	463	1	67757	100	27774	70	14652	31
GIFTED OR TALENTED	0	0	0	0	16	7	800	98	0	0	806	100	668	87	306	75
<b>MICHIGAN</b>																
ENROLLMENT	17413	1	9167	0	211132	15	1643303	97	30648	7	2010743	100	1071019	51	982874	49
EM/EMI	117	1	3	0	5477	65	15673	77	477	2	21667	100	17771	61	8445	39
IMP/IMI	16	0	14	0	405	11	3156	92	26	1	2627	100	2070	57	1550	47
SERIOUS EMOTIONALLY DISTURB	170	1	0	0	1429	14	8110	84	95	1	10353	100	8769	80	2054	20
LEARNING DISABLED	279	1	24	0	1820	8	28166	97	265	1	30740	100	22574	77	1737	27
SPEECH IMPAIRED	206	1	268	1	1697	2	20513	92	574	2	21149	100	10776	63	11427	77
ORIND HANDICAPPED	18	1	18	1	557	73	1795	74	27	1	2414	108	1370	62	1038	43
BLIND/VISUALLY IMPAIRED	8	1	0	0	392	78	467	60	5	1	272	100	438	57	236	47
DEAF/HARD OF HEARING	14	1	12	1	375	15	1777	81	51	2	2164	100	1173	54	1011	46
OTHER HEALTH IMPAIRED	0	0	0	0	214	70	824	79	8	0	1057	100	600	67	467	47
MULTIHANDICAPPED	0	0	0	0	65	10	573	88	14	2	677	100	798	59	275	41
TOTAL (ABOVE)	770	1	344	0	12293	17	95675	96	1853	1	104639	100	70676	62	33614	37
GIFTED OR TALENTED	0	0	38	1	209	9	2177	89	20	1	2384	100	1147	40	1747	57

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX  
DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL	NUMBER	PCT OF TOTAL
MINNESOTA																
ENROLLMENT	11417	1	4800	1	12608	3	822905	94	4620	1	827800	100	439047	31	417958	49
EMR/EM	208	2	49	0	430	4	11442	93	113	1	12245	100	7507	61	4727	28
THU/TAN	14	0	10	0	74	2	2206	97	12	0	2486	100	2054	59	1442	41
SERIOUS EMOTIONALLY DISTURB	10	1	8	0	76	6	1252	91	17	1	1372	100	927	60	440	32
LEARNING DISABLED	384	3	106	1	732	3	28461	94	107	1	30340	100	22429	74	7902	26
SPEECH IMPAIRED	211	2	417	2	225	1	17157	95	97	1	18117	100	11252	62	6765	37
ORTH HANDICAPPED	18	2	3	0	30	4	612	82	6	1	668	100	420	63	248	37
BLIND/VISUALLY IMPAIRED	4	1	2	0	17	3	426	96	1	0	444	100	245	35	198	42
DEAF/HARD OF HEARING	2	1	12	1	12	1	1716	90	7	1	1160	100	611	52	242	47
OTHER HEALTH IMPAIRED	11	1	2	0	40	5	758	82	4	0	815	100	305	48	420	52
MULTIHANDICAPPED	2	1	0	0	1	0	202	97	2	2	203	100	108	60	95	22
TOTAL (ADOLE)	1278	3	662	1	1544	2	64901	94	458	1	68950	100	46158	67	22792	32
GIFTED OR TALENTED	87	2	21	1	28	1	4190	92	19	0	4342	100	2154	50	2188	50
MISSISSIPPI																
ENROLLMENT	383	0	682	0	242871	49	83008	31	429	0	407980	100	265106	61	242887	49
EMR/EM	71	0	1	0	9560	2	2720	29	2	0	12299	100	8018	65	4277	32
THU/TAN	0	0	2	0	981	2	520	32	1	0	1505	100	947	56	658	44
SERIOUS EMOTIONALLY DISTURB	0	0	0	0	12	0	20	61	0	0	33	100	24	22	9	22
LEARNING DISABLED	4	0	2	0	758	2	2202	74	1	0	2487	100	2202	74	244	25
SPEECH IMPAIRED	0	0	11	0	4104	2	2942	42	5	0	4387	100	4387	62	2811	22
ORTH HANDICAPPED	0	0	0	0	22	0	17	44	0	0	39	100	27	60	19	21
BLIND/VISUALLY IMPAIRED	0	0	0	0	10	0	11	52	0	0	21	100	11	52	10	48
DEAF/HARD OF HEARING	0	0	1	1	67	0	116	62	0	0	184	100	109	59	75	41
OTHER HEALTH IMPAIRED	0	0	0	0	27	0	23	47	0	0	70	100	21	21	24	42
MULTIHANDICAPPED	0	0	0	0	27	0	27	42	0	0	64	100	26	56	28	48
TOTAL (ADOLE)	9	0	12	0	18509	84	8618	36	10	0	24242	100	16004	65	8458	32
GIFTED OR TALENTED	0	0	8	0	261	16	1412	84	2	0	1682	100	818	49	864	51

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMERICAN INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		TOTAL	
	NUMBER	PCI OF	NUMBER	PCI OF	NUMBER	PCI OF	NUMBER	PCI OF	NUMBER	PCI OF	NUMBER	PCI OF	NUMBER	PCI OF	NUMBER	PCI OF
ENROLLMENT	3187	0	3388	0	107401	13	789034	87	2968	0	804963	100	468196	53	436767	46
EMR/EMH	88	0	27	0	7037	33	14851	87	88	0	23029	100	13214	60	6848	38
IMR/IMH	0	0	1	0	107	16	608	85	0	0	717	100	868	68	332	32
SERIOUS EMOTIONALLY DISTURB	1	0	7	0	444	24	1641	68	3	0	2400	100	2019	81	478	18
LEARNING DISABILITIES	21	0	75	0	2885	14	18355	85	89	0	21539	100	14543	59	6487	30
SPEECH IMPAIRED	13	0	373	1	2511	12	28721	88	118	0	32558	100	19984	80	17889	40
PHYSICALLY HANDICAPPED	0	0	3	0	183	33	607	74	23	2	818	100	814	63	301	27
BLIND/VISUALLY IMPAIRED	0	0	0	0	34	23	110	78	1	1	145	100	68	68	48	24
DEAF/HARD OF HEARING	1	0	1	0	126	33	409	75	5	2	546	100	379	51	283	40
OTHER HEALTH IMPAIRED	1	0	0	0	370	73	101	27	3	1	378	100	86	26	279	74
MULTIHANDICAPPED	0	0	8	1	108	30	413	78	3	0	521	100	305	68	332	42
BOYS (ABOVE)	84	0	281	0	18317	18	54831	80	287	0	17900	100	11645	53	29950	37
GIFTS OR TALENTED	14	0	43	1	931	18	6374	84	44	1	6346	100	3894	46	3412	64
MONTANA																
ENROLLMENT	13361	7	848	0	476	0	163256	91	1660	1	178382	100	81038	81	87348	48
EMR/EMH	233	18	3	0	4	0	125	53	33	3	1530	100	924	18	888	38
IMR/IMH	30	4	0	0	0	0	423	84	10	3	483	100	373	60	185	40
SERIOUS EMOTIONALLY DISTURB	16	8	0	0	3	1	324	86	6	2	348	100	172	81	78	31
LEARNING DISABILITIES	181	6	0	0	13	0	3655	84	53	1	3774	100	2625	87	1230	33
SPEECH IMPAIRED	83	2	18	1	4	0	2710	84	53	2	2877	100	1668	26	1195	41
PHYSICALLY HANDICAPPED	3	3	0	0	0	0	81	85	1	3	88	100	48	14	17	28
BLIND/VISUALLY IMPAIRED	1	3	0	0	1	3	37	83	0	0	29	100	11	38	17	58
DEAF/HARD OF HEARING	0	0	0	0	1	1	85	88	1	1	78	100	33	23	78	77
OTHER HEALTH IMPAIRED	19	98	0	0	0	0	28	56	3	8	50	100	33	88	17	24
MULTIHANDICAPPED	8	18	1	3	0	0	51	84	0	0	49	100	40	68	31	34
BOYS (ABOVE)	633	8	70	0	28	0	8456	83	188	3	8189	100	8741	53	3481	37
GIFTS OR TALENTED	1	3	0	0	1	3	33	84	0	0	39	100	18	84	18	46

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA FROM FALL 1975 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
NEBRASKA																
ENROLLMENT	2648	1	1448	0	13873	4	295182	63	9548	2	308407	100	197887	63	150740	48
EMR/EMH	18	1	9	0	906	12	8556	68	229	2	2778	108	4783	61	3018	36
THP/THH	3	0	1	0	70	8	740	68	31	4	843	100	488	68	357	43
SERIOUS EMOTIONALLY DISTURB	9	1	3	0	217	23	403	28	31	1	831	100	788	62	182	23
LEARNING DISABLED	38	1	24	0	443	7	6062	61	134	2	4760	100	4658	68	3051	38
SPEECH IMPAIRED	43	0	68	1	175	1	11854	95	283	2	12484	100	7820	61	4834	29
ORTHOMANICAPPED	0	0	1	1	19	9	155	90	2	1	173	100	114	68	59	34
BLIND/VISUALITY IMPAIRED	0	0	0	0	14	10	119	68	3	2	134	100	80	31	47	48
DEAF/HARD OF HEARING	0	0	3	1	12	5	233	93	4	2	261	100	126	61	123	69
OTHER HEALTH IMPAIRED	0	0	0	0	9	3	100	91	3	2	110	100	59	60	58	60
MULTIHANDICAPPED	0	0	0	0	0	0	88	100	0	0	56	100	33	68	33	61
TOTAL (ABOVE)	188	1	130	0	1863	8	26581	90	584	2	28444	100	18488	62	10242	38
GIFTED OR TALENTED	4	0	20	0	10	0	4838	99	12	0	4984	100	2630	91	2464	49
NEVADA																
ENROLLMENT	2128	2	1280	1	18183	9	118898	83	5840	4	140817	100	72328	61	68489	46
EMR/EMH	188	1	7	1	269	21	810	60	81	9	1518	100	918	68	421	23
THP/THH	8	2	2	1	35	10	294	84	12	2	349	100	210	60	136	40
SERIOUS EMOTIONALLY DISTURB	8	2	1	0	28	10	234	85	8	2	278	100	223	62	48	18
LEARNING DISABLED	163	1	9	0	860	23	2394	84	204	9	4020	100	2867	67	1062	24
SPEECH IMPAIRED	38	1	30	1	141	2	1844	68	111	9	2188	100	1253	62	806	33
ORTHOMANICAPPED	0	0	1	0	18	5	199	83	4	2	214	100	146	68	42	21
BLIND/VISUALITY IMPAIRED	2	0	2	1	11	23	31	68	2	4	42	100	28	60	18	40
DEAF/HARD OF HEARING	1	1	1	1	12	10	113	65	9	4	123	100	78	69	56	43
OTHER HEALTH IMPAIRED	2	4	0	0	2	4	42	66	3	8	48	100	27	55	22	49
MULTIHANDICAPPED	4	2	4	2	24	12	158	79	9	9	198	100	118	69	81	41
TOTAL (ABOVE)	288	6	68	1	1408	14	8518	34	422	8	8802	100	6012	69	3232	21
GIFTED OR TALENTED	11	1	29	2	98	2	1726	93	14	1	1878	100	891	48	866	82

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
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DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE *		FEMALE *	
	PCI OF NUMBER	OF TOTAL	PCI OF NUMBER	OF TOTAL	PCI OF NUMBER	OF TOTAL	PCI OF NUMBER	OF TOTAL	PCI OF NUMBER	OF TOTAL	NUMBER	PCI OF TOTAL	NUMBER	PCI OF TOTAL	NUMBER	PCI OF TOTAL
NEW HAMPSHIRE																
ENROLLMENT	102	0	428	0	631	0	170102	09	410	0	171034	100	81818	51	94118	48
EMR/EMH	0	0	4	0	8	1	1102	09	2	0	1120	100	687	81	424	38
TEMR/TEH	0	0	0	0	0	0	112	100	0	0	112	100	68	50	84	50
SEVERE EMOTIONALLY DISTURB	0	0	0	0	0	0	141	100	0	0	141	100	132	87	16	13
LEARNING DISABLED	1	0	8	0	34	1	5225	08	13	0	3282	100	2402	71	878	28
SPEECH IMPAIRED	8	0	12	1	8	0	1801	08	13	1	1840	100	1240	57	600	33
ORTH HANDICAPPED	0	0	0	0	0	0	81	100	0	0	87	100	20	78	67	77
BLIND/VISUALLY IMPAIRED	0	0	0	0	0	0	44	100	0	0	44	100	27	81	17	38
DEAF/HARD OF HEARING	0	0	2	1	1	1	130	08	2	1	135	100	85	81	84	48
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	48	100	0	0	48	100	22	50	22	50
MULTIHANDICAPPED	0	0	0	0	0	0	175	08	2	1	177	100	116	86	63	36
TOTAL (ADOT)	8	0	22	0	40	1	8978	09	33	0	7084	100	4787	87	2374	33
GIFTED OR TALENTED	8	0	4	0	7	0	1484	08	0	0	1807	100	730	48	777	83
NEW JERSEY																
ENROLLMENT	1736	0	12084	1	329632	17	1067806	75	90743	8	1402010	100	712570	31	689440	48
EMR/EMH	1	0	37	0	5315	43	8443	46	144	13	17381	100	7244	58	8127	41
TEMR/TEH	0	0	8	0	819	28	2044	63	289	8	3257	100	1881	60	1286	40
SEVERE EMOTIONALLY DISTURB	0	0	1	0	1884	36	3713	88	320	8	4818	100	2823	62	784	17
LEARNING DISABLED	2	0	68	0	2023	18	18735	81	725	4	20614	100	18207	74	6406	26
SPEECH IMPAIRED	2	0	131	1	1133	10	8429	77	1185	13	10880	100	6860	83	4071	37
ORTH HANDICAPPED	0	0	0	0	104	30	189	68	41	12	244	100	213	63	721	38
BLIND/VISUALLY IMPAIRED	0	0	0	0	78	47	84	41	20	12	163	100	83	87	88	43
DEAF/HARD OF HEARING	0	0	8	3	128	24	235	57	89	17	688	100	281	49	287	80
OTHER HEALTH IMPAIRED	0	0	1	0	1044	87	826	41	120	8	1891	100	1087	55	804	48
MULTIHANDICAPPED	0	0	0	0	187	18	1098	82	35	3	1308	100	858	85	454	36
TOTAL (ADOT)	10	0	243	1	12547	24	38015	68	4310	8	68124	100	37834	87	18489	38
GIFTED OR TALENTED	0	0	82	1	817	17	2868	78	82	3	3418	100	1780	88	1839	81

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF	PC1	OF
	NUMBER	101	NUMBER	101	NUMBER	TOT	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101	NUMBER	101
<b>NEW MEXICO</b>																
ENROLLMENT	23601	8	1712	0	6003	2	128570	47	118125	42	276477	100	141511	54	124881	48
EMR/EMI	128	12	2	0	463	8	749	22	1942	58	2264	100	1879	50	1202	40
EMR/EMI	20	12	2	0	77	2	258	22	206	51	711	100	271	84	255	46
SERIOUS EMOTIONALIST DISTURB	22	2	8	1	60	8	608	55	212	21	690	100	782	90	188	20
LEARNING DISABLED	625	8	22	0	717	2	2401	46	3015	41	7215	100	6180	21	5127	28
SPEECH IMPAIRED	157	8	12	1	74	4	1109	55	128	22	2031	100	1221	62	755	27
ORIND HANDICAPPED	8	5	0	0	2	2	84	87	24	28	55	100	81	64	24	28
BLIND/VISUALLY IMPAIRED	8	10	0	0	2	2	40	58	11	15	58	100	48	28	12	22
DEAF/HARD OF HEARING	18	5	1	1	5	2	82	51	84	27	162	100	84	52	84	47
OTHER HEALTH IMPAIRED	8	15	0	0	0	0	14	11	82	28	22	100	15	42	17	52
MULTIHANDICAPPED	10	8	1	0	5	1	76	28	127	88	211	100	170	57	81	42
TOTAL (ABOVE)	1281	5	52	0	572	4	6242	42	6595	49	14982	100	9994	67	4987	22
GIFTED OR TALENTED	2	0	8	1	8	1	882	80	122	18	720	100	454	62	275	28
<b>NEW YORK</b>																
ENROLLMENT	10525	0	38826	4	570015	17	2799821	10	252421	11	7770478	100	1642578	51	1607850	48
EMR/EMI	15	0	64	0	9944	21	16517	54	2236	42	78671	100	14920	81	6146	28
EMR/EMI	5	0	28	1	1264	30	7292	80	150	15	4551	100	812	20	311	20
SERIOUS EMOTIONALIST DISTURB	78	0	67	0	6870	47	4578	27	7754	20	14095	100	2230	24	1505	5
LEARNING DISABLED	46	0	28	0	5881	17	26070	27	1052	5	22227	100	19011	54	8962	27
SPEECH IMPAIRED	52	0	268	1	1854	15	18120	65	2690	11	72542	100	9908	41	5502	22
ORIND HANDICAPPED	8	0	21	1	704	21	1064	46	104	57	1300	100	587	42	291	12
BLIND/VISUALLY IMPAIRED	0	0	0	0	171	26	110	61	88	12	648	100	288	42	182	21
DEAF/HARD OF HEARING	0	0	12	1	264	18	754	57	420	29	1461	100	228	25	220	22
OTHER HEALTH IMPAIRED	2	0	8	0	406	16	4187	71	201	12	2874	100	111	24	844	25
MULTIHANDICAPPED	5	0	22	1	2452	1	1025	22	1167	25	4487	100	887	18	821	9
TOTAL (ABOVE)	155	0	890	0	22285	25	89784	66	14002	12	118822	100	47772	41	26784	22
GIFTED OR TALENTED	8	0	142	1	199	6	2418	81	104	2	2827	100	1988	62	1822	42

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AREA INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
<b>NORTH CAROLINA</b>																
ENROLLMENT	18060	1	2622	0	24000	30	206131	89	1428	0	1176272	100	604696	51	676576	49
EMR/EMH	184	3	7	0	31838	55	10646	23	8	0	33393	100	31021	53	12375	37
MR/THR	26	1	9	0	1967	49	2028	60	4	0	4041	100	2228	58	1713	47
SERIOUS EMOTIONALLY DISTURB	7	1	1	0	368	37	813	63	1	0	990	100	373	78	713	77
LEARNING DISABLED	116	1	14	0	4848	39	11302	70	19	0	16807	100	17787	76	4011	74
SPEECH IMPAIRED	178	1	27	0	7437	37	14945	87	18	0	23373	100	14538	65	7794	35
ORTH HANDICAPPED	1	0	0	0	190	33	338	77	0	0	435	100	360	60	175	40
BLIND/VISUALLY IMPAIRED	1	0	0	0	55	35	105	64	0	0	185	100	88	89	81	41
DEAF/HARD OF HEARING	4	1	0	0	178	30	273	88	0	0	393	100	305	63	196	48
OTHER HEALTH IMPAIRED	0	0	0	0	103	45	123	55	0	0	225	100	95	42	130	58
HAIR HANDICAPPED	4	1	1	0	84	36	283	75	1	0	393	100	370	63	163	41
TOTAL (ABOVE)	1182	1	175	0	36826	48	41046	57	81	0	79214	100	63386	46	26426	34
GIFTED OR TALENTED	116	0	171	0	4680	12	37550	91	63	0	37634	100	18079	42	31403	87
<b>NORTH DAKOTA</b>																
ENROLLMENT	6300	0	463	0	917	0	118956	84	635	1	124774	100	64931	51	61853	49
EMR/EMH	48	4	7	1	8	1	1187	84	3	1	1258	100	760	60	496	40
MR/THR	8	1	0	0	0	0	377	96	2	1	778	100	154	41	164	89
SERIOUS EMOTIONALLY DISTURB	7	2	0	0	7	3	95	80	0	0	106	100	83	37	24	23
LEARNING DISABLED	24	4	4	0	7	0	1850	95	11	1	1957	100	1386	68	653	33
SPEECH IMPAIRED	99	3	26	1	11	0	2677	84	22	1	2838	100	1686	89	1150	89
ORTH HANDICAPPED	0	0	0	0	1	17	8	63	0	0	100	100	3	33	4	67
BLIND/VISUALLY IMPAIRED	8	9	1	3	0	0	31	83	0	0	26	100	34	74	8	26
DEAF/HARD OF HEARING	0	0	1	1	0	0	28	96	0	0	68	100	34	35	46	89
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	83	100	0	0	83	100	24	66	26	43
HAIR HANDICAPPED	1	7	1	3	0	0	41	95	0	0	42	100	38	60	17	40
TOTAL (ABOVE)	229	4	40	1	30	0	8283	95	58	1	6648	100	4054	51	2691	26
GIFTED OR TALENTED	102	1	0	0	0	0	96	96	3	3	100	100	49	49	61	61

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

BASED ON FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASTAN AMER		SLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT	PC1 OF NUMBER	OF TOT
OHIO																
ENROLLMENT	2104	0	8778	0	272241	13	1082140	88	23521	1	218492	100	1124823	81	1064568	48
EM/EMH	25	0	18	0	13012	22	46487	71	498	1	60053	100	38081	83	21861	21
EM/EMH	0	0	0	0	3	50	3	50	0	0	8	100	8	82	1	17
SERIOUS EMOTIONALLY DISTURB	0	0	0	0	188	27	501	72	3	1	84	100	509	72	184	27
LEARNING DISABLED	8	0	18	0	2360	11	18268	68	110	1	20754	100	15658	18	4894	24
SPEECH IMPAIRED	8	0	203	0	3739	11	29288	88	221	1	32327	100	20420	81	13107	28
ORING HANDICAPPED	2	0	14	1	272	18	1525	84	8	0	1818	100	1028	54	782	44
BLIND/VISUALLY IMPAIRED	0	0	2	0	272	22	442	87	3	0	548	100	388	54	300	44
DEAF/HARD OF HEARING	0	0	8	0	364	18	1817	78	43	2	1827	105	1052	54	880	48
OTHER HEALTH IMPAIRED	0	0	0	0	8	20	24	80	0	0	30	100	14	87	18	82
MULTIHANDICAPPED	0	0	0	0	38	21	128	75	8	4	170	100	108	54	82	38
TOTAL (ABOVE)	56	0	154	0	20262	17	88299	82	908	1	118682	100	77481	45	47201	25
GIFTED OR SALENIES	24	0	50	1	7789	28	4407	40	80	1	2250	100	3248	44	4105	54
OKLAHOMA																
ENROLLMENT	85287	11	5182	1	62809	8	460877	78	8432	1	880481	100	304326	83	286127	48
EM/EMH	827	8	11	0	2987	28	5618	85	104	1	10487	100	8116	54	4349	47
EM/EMH	208	8	15	0	680	14	2487	78	24	1	2187	100	1878	58	1212	81
SERIOUS EMOTIONALLY DISTURB	0	0	0	0	34	18	173	82	0	0	212	100	128	84	24	18
LEARNING DISABLED	2227	12	23	0	1824	8	14608	28	182	1	18580	100	12778	88	6810	21
SPEECH IMPAIRED	1278	11	188	1	1025	8	10058	78	212	2	12958	100	7807	81	5051	28
ORING HANDICAPPED	8	8	1	1	41	22	127	21	1	1	118	100	105	88	74	41
BLIND/VISUALLY IMPAIRED	1	0	0	0	7	22	22	72	0	0	30	100	18	80	15	60
DEAF/HARD OF HEARING	110	28	2	1	28	2	248	84	1	0	381	100	148	38	241	82
OTHER HEALTH IMPAIRED	8	15	1	2	2	8	30	77	0	0	28	100	3	8	28	82
MULTIHANDICAPPED	18	8	2	1	8	2	185	88	0	0	220	100	123	50	88	40
TOTAL (ABOVE)	8902	11	281	1	8218	17	24184	78	826	1	45175	100	29182	82	17018	21
GIFTED OR SALENIES	182	8	28	1	28	2	2282	80	8	0	8082	100	1228	44	1218	54

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN	ASIAN AMER	BLACK	WHITE	HISPANIC	TOTAL	MALE	FEMALE
	NUMBER TOT	NUMBER TOT	NUMBER TOT	NUMBER TOT	NUMBER TOT	NUMBER TOT	NUMBER TOT	NUMBER TOT
ENROLLMENT	7282	8443	8170	640150	6581	470600	340622	229978
EM/LEAD	121	8	142	3942	107	4343	2508	1835
EM/LEAD	14	2	11	833	28	891	510	381
SERIOUS EMOTIONAL DISTURB	22	2	64	1025	8	1129	900	230
LEARNING DISABLED	298	128	275	16803	487	18043	11308	6735
SPEECH IMPAIRED	212	204	138	8008	246	8522	5588	2934
OTHER HANDICAPPED	11	3	2	324	17	408	218	190
BLIND/VISUALLY IMPAIRED	0	0	2	159	8	169	53	116
DEAF/HARD OF HEARING	8	8	8	7	12	41	22	19
OTHER HEALTH IMPAIRED	5	1	23	218	3	254	74	180
MULTI HANDICAPPED	2	1	1	289	3	305	214	91
TOTAL EXCEPT	700	548	687	37880	887	35320	31884	23436
DIFFER ON TABLES	11	10	8	165	11	103	84	19
PENNSYLVANIA								
ENROLLMENT	8540	8538	367864	847458	78253	2161248	1101825	1059423
EM/LEAD	2	2	8280	34833	721	32948	20933	12015
EM/LEAD	8	8	1158	2571	2	2862	1664	1198
SERIOUS EMOTIONAL DISTURB	0	0	953	3211	25	3211	2467	744
LEARNING DISABLED	8	8	1642	16010	1	17718	15084	2634
SPEECH IMPAIRED	0	119	1290	76888	83	77982	47307	30675
OTHER HANDICAPPED	0	8	325	735	21	1013	621	392
BLIND/VISUALLY IMPAIRED	0	1	176	31	10	623	221	402
DEAF/HARD OF HEARING	0	8	152	12	41	878	219	659
OTHER HEALTH IMPAIRED	0	0	82	22	6	105	124	81
MULTI HANDICAPPED	0	2	284	45	6	688	386	302
TOTAL EXCEPT	38	188	16218	15005	1174	81118	54493	26625
DIFFER ON TABLES	6	284	2008	26104	23	28062	16423	11639

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	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PCI	OF	PCI	OF	PCI	OF	PCI	OF	PCI	OF	PCI	OF	PCI	OF	PCI	OF
	NUMBER	TOT	NUMBER	TOT	NUMBER	TOT	NUMBER	TOT	NUMBER	TOT	NUMBER	TOT	NUMBER	TOT	NUMBER	TOT
SMITH ISLAND																
Enrollment	241	0	888	1	7842	5	156830	84	2072	1	167648	100	84563	50	82085	50
EMR/EMH	0	0	3	0	180	12	1554	88	18	1	1788	100	1075	58	742	42
IMP/IMI	0	0	3	0	17	4	382	82	12	3	412	100	223	55	184	46
SERIOUS EMOTIONAL/ST DISTURB	1	0	0	0	48	18	250	83	2	7	302	100	242	80	60	30
LEARNING DISABLED	10	0	3	0	205	7	4542	83	28	1	4686	100	2435	72	1264	27
SPEECH IMPAIRED	8	0	8	0	120	4	2801	84	41	1	2976	100	1922	65	1044	25
ORTH HANDICAPPED	0	0	0	0	1	1	140	99	0	0	141	100	101	72	40	78
BLIND/VISUALLY IMPAIRED	0	0	0	0	3	10	25	86	1	2	28	100	20	69	8	21
DEAF/HARD OF HEARING	0	0	0	0	3	8	60	84	1	2	64	100	38	58	28	41
OTHER HEALTH IMPAIRED	0	0	2	1	99	41	127	97	3	1	241	100	175	73	66	27
MULTIHANDICAPPED	2	3	0	0	2	2	91	84	0	0	87	100	48	42	48	48
TOTAL EMPLOYE	22	0	14	0	790	2	8787	81	105	1	10712	100	7235	87	3483	22
GIFTED OR TALENTED	0	0	0	0	1	1	122	56	1	1	124	100	68	48	69	58
SOUTH CAROLINA																
Enrollment	825	0	1472	0	264781	81	277848	58	890	0	840291	100	330561	52	309730	48
EMR/EMH	22	0	8	0	17015	74	8640	28	8	0	22889	100	14235	82	8538	27
IMP/IMI	1	0	0	0	1220	60	852	28	1	0	2184	100	1782	58	371	87
SERIOUS EMOTIONAL/ST DISTURB	0	0	3	0	982	25	1802	85	1	0	2788	100	2088	35	702	22
LEARNING DISABLED	19	0	11	0	4127	41	8899	99	8	0	10048	100	7253	73	2889	27
SPEECH IMPAIRED	18	0	104	1	7326	49	2630	81	12	0	15089	100	8384	62	5695	28
ORTH HANDICAPPED	0	0	2	0	228	28	374	82	3	0	607	100	223	68	274	45
BLIND/VISUALLY IMPAIRED	0	0	0	0	134	42	152	55	0	0	287	100	188	58	118	41
DEAF/HARD OF HEARING	0	0	0	0	318	26	345	81	0	0	361	100	204	54	257	48
OTHER HEALTH IMPAIRED	1	0	1	0	508	54	422	48	3	0	445	100	821	56	374	24
MULTIHANDICAPPED	0	0	0	0	32	50	32	50	0	0	68	100	49	64	24	28
TOTAL EMPLOYE	81	0	127	0	21881	12	12462	42	22	0	82828	100	25898	82	19578	28
GIFTED OR TALENTED	1	0	18	1	294	11	1985	88	4	0	2288	100	1094	48	1178	52

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STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND AGE  
DATA TAKEN FROM FALL 1978 (ELEMENTARY AND SECONDARY SCHOOLS) CIVIC RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE *		FEMALE *	
	PCT OF NUMBER TOT		PCT OF NUMBER TOT		PCT OF NUMBER TOT		PCT OF NUMBER TOT		PCT OF NUMBER TOT		PCT OF NUMBER TOT		PCT OF NUMBER TOT		PCT OF NUMBER TOT	
<b>SOUTH CAROLINA</b>																
ENROLLMENT	9121	6	603	0	296	0	124236	83	1368	1	145644	100	74048	51	11896	48
EMR/EMH	128	16	3	0	3	0	838	84	3	0	1122	100	899	63	472	38
EMR/EMH	182	18	1	0	0	0	242	81	0	0	300	100	165	63	145	48
SERIOUS EMOTIONALLY DISTURB	3	14	0	0	2	10	16	16	0	0	21	100	18	78	2	33
LEARNING DISABLED	54	4	3	0	12	1	1165	84	5	0	1229	100	828	87	412	33
SPEECH IMPAIRED	189	8	28	1	2	0	3097	90	2	0	3228	100	1358	58	972	47
ORTHOPEDICALLY IMPAIRED	1	11	0	0	0	0	6	88	0	0	6	100	6	87	2	33
BLIND/VISUALLY IMPAIRED	0	0	0	0	1	17	6	63	0	0	6	100	3	60	3	60
DEAF/HARD OF HEARING	1	2	1	2	0	0	42	81	2	4	47	100	24	51	23	48
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	1	100	0	0	1	100	0	0	1	100
MULTIHANDICAPPED	0	0	0	0	0	0	91	100	0	0	91	100	61	66	40	44
TOTAL (ABOVE)	8878	3	37	1	25	0	4806	85	18	0	8165	100	3138	61	2078	28
GIFTED OR TALENTED	0	0	1	1	8	8	87	83	8	8	83	100	38	32	58	48
<b>TEXAS</b>																
ENROLLMENT	444	0	1034	0	180796	72	682432	78	833	0	634039	100	450048	51	472893	48
EMR/EMH	16	0	3	0	8870	42	8443	87	1	0	18430	100	10718	65	8718	35
EMR/EMH	0	0	2	0	812	36	1898	84	1	0	2512	100	1410	54	1102	44
SERIOUS EMOTIONALLY DISTURB	2	0	0	0	216	30	609	76	3	0	329	100	83	28	177	34
LEARNING DISABLED	2	0	28	0	7082	32	24546	78	10	0	21778	100	21306	57	10634	33
SPEECH IMPAIRED	2	0	83	0	4385	18	20446	83	20	0	24841	103	16870	84	8672	38
ORTHOPEDICALLY IMPAIRED	0	0	8	2	81	15	213	83	0	0	278	100	258	87	124	32
BLIND/VISUALLY IMPAIRED	0	0	0	0	182	60	245	60	0	0	407	100	263	63	144	28
DEAF/HARD OF HEARING	0	0	1	0	288	38	471	71	0	0	660	100	332	60	327	60
OTHER HEALTH IMPAIRED	0	0	0	0	245	24	122	25	0	0	467	100	38	18	281	84
MULTIHANDICAPPED	0	0	0	0	381	38	635	71	0	0	1318	100	703	61	615	28
TOTAL (ABOVE)	33	0	128	0	30713	38	58778	74	34	0	79621	100	81882	63	27900	28
GIFTED OR TALENTED	3	0	28	0	763	12	8586	88	5	0	8378	100	2140	48	3236	81

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\* SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS



STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	ASIAN INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT	NUMBER	PCT OF TOT
<b>TEXAS</b>																
ENROLLMENT	4822	0	12641	0	428931	15	1822830	58	206181	25	2827101	100	1454139	51	1222943	42
EMR/EMR	22	0	32	0	11370	38	9824	33	8426	28	30022	100	16328	81	11280	38
EMR/EMR	8	0	13	0	1955	27	2090	43	2124	30	2198	100	2948	55	2128	44
SERIOUS EMOTIONALLY DISTURB	2	0	8	0	940	18	4264	21	804	12	6045	100	4228	21	1203	28
LEARNING DISABLES	80	0	178	0	20590	18	85038	86	28272	25	118186	100	80482	70	34118	30
SPEECH IMPAIRED	81	0	488	1	8501	18	28652	81	14922	24	83420	100	29070	82	23821	38
ORING HANDICAPPED	2	0	12	1	360	18	1312	22	608	28	2300	100	1212	52	940	42
BLIND/VISUALLY IMPAIRED	0	0	2	0	126	18	522	64	128	21	842	100	530	83	210	22
DEAF/HARD OF HEARING	0	0	2	0	508	18	1706	63	848	28	2188	100	1894	53	1439	45
OTHER HEALTH IMPAIRED	4	0	2	0	1045	30	1812	58	488	18	3452	100	1538	44	1877	54
MULTIHANDICAPPED	1	0	2	0	288	78	947	82	822	22	1811	100	1100	61	707	29
TOTAL (ABOVE)	201	0	722	0	46583	20	122394	58	88568	25	223481	100	152281	45	79458	34
GIFTED OR TALENTED	2	0	14	1	824	28	8605	81	218	12	2428	100	1228	60	1258	85
<b>UTAH</b>																
ENROLLMENT	4648	1	2642	1	1623	1	281418	82	12031	4	312390	100	160586	51	162284	88
EMR/EMR	22	2	18	1	51	2	3221	82	274	8	2142	100	1821	61	1310	22
EMR/EMR	12	2	2	0	8	1	822	21	25	2	582	100	211	62	218	42
SERIOUS EMOTIONALLY DISTURB	128	2	25	0	87	1	8834	22	323	5	2258	100	6092	20	2145	30
LEARNING DISABLES	230	2	27	1	189	1	12060	88	1008	2	12704	100	9085	68	4570	23
SPEECH IMPAIRED	84	1	81	2	28	1	4738	82	175	2	5085	100	2122	82	1821	38
ORING HANDICAPPED	1	1	2	2	1	1	124	95	8	2	184	100	101	53	83	42
BLIND/VISUALLY IMPAIRED	1	1	4	3	1	1	148	95	2	1	152	100	88	65	68	45
DEAF/HARD OF HEARING	8	1	2	1	6	1	278	94	8	2	292	100	141	62	118	41
OTHER HEALTH IMPAIRED	0	0	0	0	2	1	156	98	8	2	162	100	88	84	75	48
MULTIHANDICAPPED	20	2	5	1	2	1	822	90	40	8	899	100	409	62	290	91
TOTAL (ABOVE)	632	2	248	1	275	1	28068	90	1803	8	27222	100	20408	68	10287	24
GIFTED OR TALENTED	8	1	20	2	12	1	800	90	81	8	958	100	822	45	826	58

\* SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS

STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER
	101	101	101	101	101	101	101	101	101	101	101	101	101	101	101	101
VERMONT																
ENROLLMENT	387	0	162	0	718	0	101820	95	91	0	102678	100	82815	63	89164	48
EMR/EMH	8	1	0	0	8	1	882	88	0	0	999	100	871	63	332	32
IMP/IMP	0	0	0	0	2	1	788	95	0	0	250	100	178	51	172	89
SERIOUS EMOTIONALLY DISTURB	0	0	0	0	3	2	96	98	0	0	88	100	68	82	29	33
LEARNING DISABLED	8	0	2	0	5	0	2827	98	5	0	2844	100	2023	68	909	31
SPEECH IMPAIRED	0	0	6	0	0	0	1568	100	0	0	1877	100	1025	64	536	38
BLIND/HANDICAPPED	0	0	0	0	0	0	29	100	0	0	29	100	20	51	18	89
BLIND/VISUALLY IMPAIRED	0	0	0	0	0	0	83	100	0	0	43	100	23	51	21	89
DEAF/HARD OF HEARING	0	0	0	0	0	0	60	100	0	0	66	100	30	85	36	55
OTHER HEALTH IMPAIRED	0	0	1	2	0	0	81	98	0	0	53	100	30	88	32	47
MULTIHANDICAPPED	0	0	0	0	0	0	77	100	0	0	77	100	18	87	9	33
TOTAL (ABOVE)	18	0	9	0	12	0	8035	98	5	0	8080	100	4007	68	2015	38
GIFTED OR TALENTED	0	0	0	0	0	0	85	100	0	0	85	100	75	38	38	60
VIRGINIA																
ENROLLMENT	1176	0	10274	1	248215	74	818280	78	8804	0	1097378	100	581605	51	535778	89
EMR/EMH	8	0	20	0	9089	94	7826	45	18	0	18865	100	10790	64	6175	36
IMP/IMP	3	0	18	0	1256	40	1828	60	4	0	2135	100	1271	56	1204	88
SERIOUS EMOTIONALLY DISTURB	1	0	1	0	525	27	1177	68	4	0	1858	100	1280	84	269	18
LEARNING DISABLED	3	0	78	0	3807	27	13850	78	37	0	17518	100	12317	78	8706	24
SPEECH IMPAIRED	3	0	280	2	6242	28	17138	72	116	0	17381	100	18303	64	8577	38
BLIND/HANDICAPPED	0	0	3	1	66	18	300	81	2	1	371	100	218	59	153	81
BLIND/VISUALLY IMPAIRED	0	0	3	1	52	18	213	78	0	0	287	100	152	52	118	63
DEAF/HARD OF HEARING	0	0	2	1	181	14	895	85	8	1	1059	100	686	65	473	65
OTHER HEALTH IMPAIRED	0	0	0	0	12	25	50	76	0	0	87	100	81	81	27	80
MULTIHANDICAPPED	5	1	2	0	271	21	506	67	2	1	871	100	636	80	245	40
TOTAL (ABOVE)	28	0	888	1	21827	23	82662	66	788	0	88813	100	84088	82	21726	33
GIFTED OR TALENTED	2	0	184	2	1278	18	2852	88	34	0	9418	100	8258	85	5160	86

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\* SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS

STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX  
DATA TAKEN FROM FALL 1970 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL	MALE *		FEMALE *		
	PCT OF NUMBER	TOT	PCT OF NUMBER	TOT	PCT OF NUMBER	TOT	PCT OF NUMBER	TOT	PCT OF NUMBER	TOT	PCT OF NUMBER	TOT	PCT OF NUMBER	TOT	PCT OF NUMBER	
WASHINGTON																
ENROLLMENT	19058	2	17037	3	22830	3	498181	80	19949	3	776873	100	308968	51	377904	49
EMR/EMR	406	5	86	1	710	10	4049	41	188	3	7471	100	4375	59	3096	41
IMR/IMR	38	3	14	1	41	4	1294	80	33	2	1433	100	744	53	608	48
SERIOUS EMOTIONALLY DISTURB	149	3	42	1	304	7	4054	48	43	1	4611	100	3413	74	1187	34
LEARNING DISABLED	333	3	95	1	485	5	4440	88	304	2	9546	100	6833	73	3113	39
SPEECH IMPAIRED	94	2	191	4	243	5	3940	47	72	2	4329	100	2936	64	1414	36
ORTHOMANICAPPED	13	3	13	2	33	4	895	91	10	1	764	100	459	60	306	40
BLIND/VISUALLY IMPAIRED	17	2	32	3	38	5	706	86	18	3	802	100	457	54	265	46
DEAF/HARD OF HEARING	11	3	4	1	14	4	357	81	3	1	381	100	357	68	123	34
OTHER HEALTH IMPAIRED	30	3	33	3	48	8	840	87	30	3	1131	100	443	57	489	43
MULTIHANDICAPPED																
TOTAL (ABOVE)	1078	3	820	3	1856	4	7937	98	824	3	30813	100	20164	65	10646	35
GIFTED OR TALENTED	0	0	38	4	20	3	689	93	9	1	747	100	381	51	330	44
WEST VIRGINIA																
ENROLLMENT	334	0	145	0	14876	4	247834	84	410	0	406178	100	308904	51	197370	49
EMR/EMR	3	0	4	0	819	7	8106	93	3	0	8734	100	6415	64	3118	36
IMR/IMR	0	0	0	0	48	7	1118	93	1	0	1206	100	648	53	538	45
SERIOUS EMOTIONALLY DISTURB	0	0	0	0	39	8	475	92	0	0	484	100	289	79	101	32
LEARNING DISABLED	3	0	1	0	381	5	4942	95	4	0	5210	100	3733	71	1688	29
SPEECH IMPAIRED	3	0	11	0	131	3	1914	97	6	0	6070	100	3817	63	2352	37
ORTHOMANICAPPED	0	0	0	0	5	0	181	87	0	0	195	100	89	53	86	45
BLIND/VISUALLY IMPAIRED	0	0	0	0	8	7	43	93	0	0	67	100	57	95	10	16
DEAF/HARD OF HEARING	0	0	0	0	7	4	179	38	0	0	186	100	95	51	91	49
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	31	100	0	0	38	100	13	48	15	54
MULTIHANDICAPPED	0	0	0	0	12	5	319	95	0	0	231	100	198	53	105	45
TOTAL (ABOVE)	8	0	18	0	1173	5	31172	95	13	0	33383	100	14875	65	7806	35
GIFTED OR TALENTED	0	0	12	1	14	1	1854	98	4	0	1884	100	987	52	492	47

\* SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS

STATE AND NATIONAL ESTIMATES OF PARTICIPATION IN SPECIAL EDUCATION  
BY RACE/ETHNICITY AND SEX  
DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

	AMER INDIAN		ASIAN AMER		BLACK		WHITE		HISPANIC		TOTAL		MALE		FEMALE	
	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER	PCT OF	NUMBER
WISCONSIN																
ENROLLMENT	10018	1	3311	0	48700	8	886208	52	11464	1	840072	100	480831	51	458241	48
EMR/ENR	503	4	16	0	1283	10	10879	84	302	2	12632	100	2533	60	6114	40
EMR/FMR	84	4	40	0	248	10	2018	84	34	1	2332	100	1368	57	1034	43
SERIOUS EMOTIONALLY DISTURB	48	1	10	0	374	8	3568	88	48	1	4626	100	3788	81	751	18
LEARNING DISABLED	108	1	26	0	218	5	14109	83	136	1	25188	100	11647	11	2516	23
SPEECH IMPAIRED	339	3	61	0	813	8	11894	89	109	1	13058	100	8314	65	4541	35
ORTH HANDICAPPED	10	2	0	0	29	2	359	88	18	4	418	100	356	62	160	38
BLIND/VISUALLY IMPAIRED	3	2	1	0	70	10	181	84	8	3	191	100	137	88	68	34
DEAF/HARD OF HEARING	11	2	0	1	48	8	647	86	10	2	216	100	354	48	365	51
OTHER HEALTH IMPAIRED	3	1	0	0	108	9	148	84	3	1	310	100	135	41	176	87
MULTIHANDICAPPED	11	1	18	2	84	8	732	87	18	2	823	100	484	52	390	42
TOTAL (ABOVE)	1160	2	143	0	3734	2	44042	68	662	1	49781	100	33653	86	16117	27
GIFTED OR TALENTED	8	0	28	1	208	8	3016	88	31	1	3371	100	1487	44	1878	64
WYOMING																
ENROLLMENT	1282	2	412	0	224	2	61854	81	4497	6	68703	100	46727	83	42981	48
EMR/ENR	18	2	2	0	23	3	827	28	108	18	682	100	387	68	383	41
EMR/FMR	1	1	1	1	1	1	130	91	10	2	143	100	83	88	50	42
SERIOUS EMOTIONALLY DISTURB	11	8	1	0	8	3	177	85	14	2	282	100	137	86	70	34
LEARNING DISABLED	80	2	4	0	81	2	2581	87	260	8	2558	100	2117	27	838	28
SPEECH IMPAIRED	21	2	23	2	12	7	1218	100	84	4	1328	100	639	67	496	27
ORTH HANDICAPPED	0	0	0	0	2	6	38	95	0	0	38	100	13	34	75	88
BLIND/VISUALLY IMPAIRED	0	0	0	0	0	0	13	28	4	24	17	100	11	65	8	35
DEAF/HARD OF HEARING	0	0	0	0	0	0	60	86	2	8	82	100	37	81	15	38
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	31	69	4	14	35	100	27	63	13	27
MULTIHANDICAPPED	14	24	5	0	3	9	36	67	5	9	68	100	07	64	27	38
TOTAL (ABOVE)	111	2	30	1	107	2	4805	87	458	8	5512	100	3687	67	1838	21
GIFTED OR TALENTED	0	0	0	0	2	3	1220	94	3	1	226	100	100	44	126	86

\* SUM OF MALE AND FEMALE MAY NOT EQUAL TOTAL BECAUSE OF REPORTING ERRORS

## USERS' GUIDE

TABLE 10  
STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS  
PARTICIPATING IN SPECIAL EDUCATION PROGRAMS  
BY AMOUNT OF TIME SPENT IN PROGRAM

Table 10 presents state and national estimates of special education enrollments by type of program and amount of time spent in program. For each state and for the nation, there are 12 rows of data displayed, corresponding to special education programs listed on the OS/CR 102 form, Item 19:

1. EHR/EMH - Programs for the educable mentally retarded
2. TMR/TMH - Programs for the trainable mentally retarded
3. SERIOUSLY EMOTIONALLY DISTURBED - Programs for the seriously emotionally disturbed
4. LEARNING DISABLED - Programs for the specific learning disabled
5. SPEECH IMPAIRED - Programs for the speech impaired
6. ORTHO HANDICAPPED - Programs for the orthopedically handicapped
7. BLIND/VISUALLY IMPAIRED - Programs for the blind or visually impaired
8. DEAF/HARD OF HEARING - Programs for the deaf or hard of hearing
9. OTHER HEALTH IMPAIRED - Programs for the other health impaired
10. MULTIHANDICAPPED - Programs for the multihandicapped
11. TOTAL (ABOVE) - Computed total of rows 1 through 10 above (this total may not agree with the reported total given for Item 19K of the OS/CR 102 form)
12. GIFTED OR TALENTED - Programs for the gifted or talented.

For each special education program, the following columns of data are displayed:

1. PUPILS IN PROGRAM - Number of pupils in the special education program as reported on the OS/CR 102 form, Item 19, columns 1 through 5. This number was computed by summing columns 1 through 5 of Item 19 which contain the program enrollment by race/ethnicity.
2. SCHOOLS OFFERING PROGRAM - Number of schools offering the special education program. A school was considered to offer the program if total enrollment in the program, as computed for column 1 above, was greater than zero.



## 3. PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM:

## a. LESS THAN 10 HOURS:

## (1) PUPILS:

- (a) NUMBER - Number of pupils enrolled in the program who spend less than 10 hours a week in special education programs as reported on the OS/CR 102 Form, Item 19, column 9.
- (b) PCT - Number of pupils enrolled in the program who spend less than 10 hours a week in special education programs (column 3.a.(1)(a) above.. PUPILS-NUMBER) expressed as a percentage of total enrollment in the program (column 1 above, PUPILS IN PROGRAM).

## (2) 100% SCHLS:

- (a) NUMBER - Number of schools in which all pupils enrolled in the program spend less than 10 hours a week in special education programs.
- (b) PCT - Number of schools in which all pupils enrolled in the program spend less than 10 hours a week in special education programs (column 3.a.(2)(a) above, 100% SCHLS-NUMBER) expressed as a percentage of total number of schools offering the program (column 2 above, SCHOOLS OFFERING PROGRAM).

## d. MORE THAN 10 HOURS LESS THAN FULL-TIME:

## (1) PUPILS:

- (a) NUMBER - Number of pupils enrolled in the program who spend more than 10 hours a week, but less than full-time, in special education programs as reported on the OS/CR 102 Form, Item 19, column 10.
- (b) PCT - Number of pupils enrolled in the program who spend more than 10 hours a week, but less than full-time, in special education programs (column 3.b.(1)(a) above.. PUPILS-NUMBER) expressed as a percentage of total enrollment in the program (column 1 above, PUPILS IN PROGRAM).

## (2) 100% SCHLS:

- (a) NUMBER - Number of schools in which all pupils enrolled in the program spend more than 10 hours a week, but less than full-time, in special education programs.
- (b) PCT - Number of schools in which all pupils enrolled in the program spend more than 10 hours a week, but less than full-time in special education programs (column 3.b.(2)(a) above, 100% SCHLS-NUMBER) expressed as a percentage of total number of schools offering the program (column 2 above, SCHOOLS OFFERING PROGRAM).

## cc FULL-TIME:

## (1) PUPILS:

- (a) NUMBER - Number of pupils enrolled in the program who are enrolled full-time in special education programs as reported on the OS/CR 102 Form, Item 19, column 11.
- (b) PCT - Number of pupils enrolled in the program who are enrolled full-time in special education programs (column 3.c.(1)(a) above, PUPILS-NUMBER) expressed as a percentage of total enrollment in the program (column 1 above, PUPILS IN PROGRAM).

## (2) 100% SCLS:

- (a) NUMBER - Number of schools in which all pupils enrolled in the program are enrolled full-time in special education programs.
- (b) PCT - Number of schools in which all pupils enrolled in the program are enrolled full-time in special education programs (column 3.c.(2)(a) above, 100% SCLS-NUMBER) expressed as a percentage of total number of schools offering the program (column 2 above, SCHOOLS OFFERING PROGRAM).

Instructions to Item 39 of the OS/CR 102 Form indicate that pupils are to be counted only once in the program in which they spend the most time. In determining the amount of time spent in special education, the instructions indicate that all special education programs in which the pupil participates should be counted. Hence, if a pupil spends 9 hours a week in an EHR/EMH program and 6 hours a week in a program for the speech impaired, that pupil would be reported on the OS/CR 102 Form as Educable Mentally Retarded - 10 Hours or More Per Week But Less Than Full-Time (Item 19a, column 10).

The sum of pupils by amount of time may not equal total pupils in program because of reporting errors. As a result, the sum of columns labelled PUPILS-PCT may not equal 100.

The row labelled TOTAL (ABOVE) is simply a sum of rows 1 through 10. This means that, for the columns containing a count of schools, this row is a duplicated count, i.e. a school is counted once for each Program offered.

All data displayed is projected. Projected enrollment in each program may differ slightly from that given in other reports because of rounding errors. (In this report, the total for each program was computed and then projected. In other reports, enrollment by race/ethnicity was projected and then total was computed.) All percentages are rounded to the nearest whole number. A percentage of less than 1/2 of 1% (.5%) will appear as zero (0).

Referring to page 1 of the report, it can be seen that for the nation there were 661,170 pupils enrolled in programs for the educable mentally retarded and a total of 38,540 schools offered such programs. Of the pupils enrolled in EMR/EMH programs, 83,870 or approximately 13% spent less than 10 hours a week in special education programs. Of the schools offering the programs, 4,682 or approximately 12% assigned all EMR/EMH pupils to special education programs for less than 10 hours a week. Similarly, 211,517 or approximately 32% of the EMR/EMH pupils spend more than 10 hours a week but less than full-time in special education programs and 9,835 or approximately 26% of the schools assigned all EMR/EMH pupils to special education programs for more than 10 hours a week but less than full-time. Finally, 362,481 or approximately 55% of EMR/EMH pupils were assigned to full-time special education programs and 15,520 or approximately 40% of the schools assigned all EMR/EMH pupils to full-time special education programs.

By summing the columns labelled 100% SCHS-NUMBER and subtracting from the column labelled SCHOOLS OFFERING PROGRAM, it can be seen that 8,504 schools ( $38,540 - (4,682 + 9,835 + 15,340) = 8,504$ ) assigned EMR/EMH pupils to special education programs for varying amounts of time, i.e. some EMR/EMH pupils were assigned to special education programs for less than 10 hours a week while others were full-time, etc.

The major data problems affecting this report involved the state of Massachusetts. Massachusetts does not classify special education pupils by the programs specified. Hence, most districts in Massachusetts did not provide a breakdown of special education pupils by type of program. These districts were not included in this report and the totals given for Massachusetts are, therefore, meaningless.

In addition, secondary schools in Los Angeles did not report pupils by amount of time in special education programs.

Since schools offering program was determined by examining total pupils in program as computed by summing enrollment by racial/ethnic category, schools which did not provide a breakdown by race were eliminated from this report.

TABLE 10

State and National Estimates of School Offending and Pupils Participating in Special Education Programs by Amount of Time Spent in Program

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN PROGRAM **	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			100% SCHOL		100% SCHOL		100% SCHOL		100% SCHOL		100% SCHOL			
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT		
NATIONAL TOTALS														
SM/SM	681170	20540	62070	12	4642	12	311817	37	8825	26	363481	55	15120	40
TM/TM	98182	5185	1068	1	745	4	4874	5	851	16	89078	83	4622	78
SERIOUS EMOTIONALLY DISTURB	122322	13728	20181	21	2862	21	24507	20	2382	18	89699	48	2747	78
LEARNING DISABLED	86178	44378	84398	43	22941	49	188884	31	4487	13	125087	15	9454	17
SPEECH IMPAIRED	284815	34053	74752	86	24483	82	18472	3	888	3	18283	7	981	7
ORING HANDICAPPED	30462	4030	4795	16	1674	42	7808	8	850	18	27178	72	1322	32
BLIND/VISUALLY IMPAIRED	17255	8617	6596	37	2776	67	2872	30	797	14	2488	27	778	14
DEAF/HARD OF HEARING	25857	7228	10854	20	4488	51	8188	17	684	12	18577	52	1301	18
OTHER HEARING IMPAIRED	29509	2840	18181	81	1896	83	4428	15	488	14	5381	27	842	24
MULTIHANDICAPPED	21558	2864	4876	14	901	23	5257	17	810	31	21872	44	1884	45
TOI48180VE1	2634404	187274	1478422	85	81078	48	470828	17	22091	18	740822	27	26199	22
CLIFFED OR BLENDED	405060	51782	300678	74	8605	52	45034	11	814	7	83348	14	843	2
ALABAMA														
SM/SM	26884	1014	1270	5	77	2	7806	28	184	18	17718	68	811	60
TM/TM	2818	182	10	0	3	3	171	4	15	8	2778	85	188	88
SERIOUS EMOTIONALLY DISTURB	327	48	97	28	18	20	88	38	7	18	148	42	71	48
LEARNING DISABLED	8049	290	2481	88	181	88	1171	22	28	12	401	8	21	7
SPEECH IMPAIRED	7788	255	7098	81	230	82	216	4	14	4	253	8	14	4
ORING HANDICAPPED	187	72	17	7	3	12	8	7	3	12	180	60	18	88
BLIND/VISUALLY IMPAIRED	60	22	14	22	8	22	20	22	8	22	20	45	11	48
DEAF/HARD OF HEARING	214	88	86	22	28	60	48	18	8	12	181	88	14	27
OTHER HEARING IMPAIRED	34	10	11	21	3	30	3	8	1	10	22	84	8	80
MULTIHANDICAPPED	218	32	11	3	1	2	21	10	8	18	224	57	27	67
TOI48180VE1	42841	2048	12108	28	881	28	8817	22	294	14	22049	60	880	44
CLIFFED OR BLENDED	7804	84	1787	82	28	60	868	24	10	11	387	14	2	1

\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
 \* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM



STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1975 ELEMENTARY AND SECONDARY SCHOOLS CENSUS STUDY SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

CLASSES	PUPILS IN OFFERING PROGRAM	SCHOOLS PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCHL		PUPILS		100% SCHL		PUPILS		100% SCHL	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
200/100	880	157	166	31	27	24	214	42	27	17	320	36	20	19
100/100	111	25	1	0	0	0	3	3	5	73	207	96	18	12
SERIOUS EMOTIONALLY DISTURB	202	78	22	15	14	18	30	15	8	11	125	62	44	58
LEARNING DISABLED	4231	226	248	27	18	25	1184	22	28	11	705	15	21	11
SPEECH IMPAIRED	1822	159	187	49	14	82	17	1	5	0	5	0	5	3
ORING HANDICAPPED	58	24	8	14	7	28	15	21	3	29	22	56	8	32
BLIND/VISUALLY IMPAIRED	31	20	12	42	10	28	8	25	8	23	8	28	17	72
DEAF/HARD OF HEARING	250	44	114	45	21	46	55	27	17	27	81	32	7	13
OTHER HEALTH IMPAIRED	86	36	6	11	5	15	18	22	12	45	22	57	5	25
MULTIHANDICAPPED	74	12	0	0	0	0	15	24	7	84	54	74	5	42
TOTAL(ABOVE)	8020	286	4731	45	231	61	1200	21	120	11	1581	20	181	20
GIFTED OR TALENTED	753	54	712	34	57	85	69	8	4	6	0	0	0	0
AZONA														
200/100	8708	632	1584	22	118	77	1807	27	144	72	3264	50	177	20
100/100	1292	265	17	1	8	4	200	18	54	57	1080	84	82	22
SERIOUS EMOTIONALLY DISTURB	2249	262	1808	50	158	41	740	25	81	18	698	78	57	15
LEARNING DISABLED	20109	899	19744	78	455	51	2289	11	22	8	2114	11	21	3
SPEECH IMPAIRED	17818	654	12608	68	576	95	151	1	12	2	64	1	2	0
ORING HANDICAPPED	196	54	60	21	32	55	21	14	8	85	105	54	9	14
BLIND/VISUALLY IMPAIRED	190	134	161	81	110	87	22	17	27	28	2	7	5	1
DEAF/HARD OF HEARING	427	156	282	64	87	64	128	20	32	28	5	1	8	6
OTHER HEALTH IMPAIRED	189	82	85	47	25	46	27	20	17	33	60	22	12	22
MULTIHANDICAPPED	281	51	24	17	12	25	92	28	27	42	164	56	14	77
TOTAL(ABOVE)	45461	2166	32187	71	1678	62	6455	17	442	14	7844	17	210	10
GIFTED OR TALENTED	10485	210	9682	81	784	82	283	2	2	1	660	8	8	2

\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

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**1971 AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM**

DATA TAKEN FROM FALL 1968 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

**PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM**

	PUPILS IN PROGRAM **	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
ARKANSAS														
EMR/EMH	11218	812	2831	25	103	12	5055	45	182	21	2344	20	127	22
EMR/EMH	655	127	78	8	8	8	121	22	42	21	412	24	82	60
SERIOUS EMOTIONALLY DISTURB	322	60	123	34	71	25	104	32	30	33	48	14	8	18
HEARING DISABLED	3118	325	4325	85	270	84	537	12	28	11	118	2	12	4
SPEECH IMPAIRED	4205	299	4023	87	282	84	141	2	12	8	8	0	2	1
ORING HANDICAPPED	58	12	10	17	8	52	2	2	0	0	12	80	2	27
BLIND/VISUALLY IMPAIRED	18	18	11	88	11	85	2	18	2	18	2	12	2	15
DEAF/HARD OF HEARING	215	82	48	22	32	35	10	5	4	4	184	72	50	64
OTHER HEALTH IMPAIRED	10	8	2	20	2	60	2	20	1	20	0	0	0	0
MULTIHANDICAPPED	24	8	2	28	4	60	2	12	1	12	14	84	2	28
TOTAL(ABOVE)	23641	1826	32472	87	1882	84	6079	26	212	20	4182	17	201	19
GIFTED OR TALENTED	64	8	28	84	8	28	34	84	2	26	0	0	0	0
CALIFORNIA														
EMR/EMH	28122	1952	284	1	22	1	8408	22	426	27	18024	84	1247	89
EMR/EMH	8818	125	2	0	0	0	133	2	8	4	8860	81	127	84
SERIOUS EMOTIONALLY DISTURB	4252	648	887	12	87	12	852	27	46	8	2912	65	222	84
HEARING DISABLED	87800	5245	40872	42	1867	29	26504	28	624	18	20811	21	1427	28
SPEECH IMPAIRED	64805	2810	28442	92	2422	84	1807	2	84	2	4254	8	272	7
ORING HANDICAPPED	8478	422	847	11	122	41	241	8	27	12	4201	24	149	25
BLIND/VISUALLY IMPAIRED	1815	288	291	82	452	84	412	22	60	11	425	28	185	28
DEAF/HARD OF HEARING	4000	571	544	14	211	40	892	22	85	18	2425	81	184	21
OTHER HEALTH IMPAIRED	10109	712	712	71	841	81	522	8	42	2	1554	18	84	2
MULTIHANDICAPPED	1628	188	126	8	26	18	148	8	12	8	1251	28	29	84
TOTAL(ABOVE)	245174	14422	122955	82	9470	45	27640	15	1218	12	22944	20	4258	20
GIFTED OR TALENTED	180625	2587	120008	75	2282	78	18677	11	242	2	20821	12	302	8

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† SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL STATISTICS OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN PROGRAM **	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS -		100% SCHOOLS *		PUPILS -		100% SCHOOLS *		PUPILS -		100% SCHOOLS *	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
COLORADO														
EM/EMH	1564	308	737	8	20	8	7783	11	183	48	1574	34	26	25
PH/PHH	174	18	2	2	1	1	84	30	8	50	132	28	6	23
SERIOUS EMOTIONALLY DISTURBED	2537	340	965	26	58	26	850	78	28	12	302	58	83	28
LEARNING DISABLED	16028	867	10631	88	381	42	8815	78	234	71	381	5	22	3
SPEECH IMPAIRED	8472	635	8182	82	278	92	717	3	8	1	85	1	7	1
ORTH HANDICAPPED	432	113	111	78	27	23	95	77	64	57	278	83	8	8
BLIND/VISUALLY IMPAIRED	188	118	123	71	68	80	48	74	14	12	10	5	1	6
DEAF/HARD OF HEARING	548	125	308	28	81	35	370	88	75	20	88	12	7	6
OTHER HEALTH IMPAIRED	58	17	20	53*	10	18	14	27	3	18	4	11	3	12
MULTIHANDICAPPED	809	163	115	12	18	12	531	88	117	22	263	28	15	6
TOTAL(ABOVE)	33889	2581	20620	81	1783	48	8225	23	887	26	4024	17	717	8
GIFTED OR TALENTED	842	26	288	82	71	88	10	1	1	4	48	8	1	4
CONNECTICUT														
EM/EMH	4870	397	358	8	23	8	1838	28	121	50	2757	82	123	54
PH/PHH	1224	88	7	1	2	7	29	7	4	8	1188	87	78	88
SERIOUS EMOTIONALLY DISTURBED	2887	294	861	27	88	20	238	27	81	18	865	58	53	71
LEARNING DISABLED	88181	737	10856	77	445	51	2542	18	72	10	744	5	77	3
SPEECH IMPAIRED	10803	603	8827	64	834	86	517	5	23	8	154	1	12	7
ORTH HANDICAPPED	218	103	100	27	37	38	73	7	18	14	182	81	48	45
BLIND/VISUALLY IMPAIRED	207	123	188	78	89	71	32	16	28	21	15	8	6	7
DEAF/HARD OF HEARING	252	181	708	88	102	88	107	20	23	20	40	11	13	8
OTHER HEALTH IMPAIRED	722	88	85	31	27	81	14	8	10	18	174	64	28	38
MULTIHANDICAPPED	837	83	97	18	14	17	131	24	18	18	309*	88	26	61
TOTAL(ABOVE)	29208	2842	27682	54	1274	83	8884	17	388	18	5541	18	823	15
GIFTED OR TALENTED	2402	180	3224	85	181	88	38	3	6	3	80	3	8	3

\*\* SIZE OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE PRECISELY-AMOUNT-OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM 1985-1986 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN PROGRAM **	SCHOOLS PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCHLS		PUPILS		100% SCHLS		PUPILS		100% SCHLS	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
DELAWARE														
EMR/EMH	2106	139	89	5	1	1	1025	48	87	48	588	47	49	33
THR/THH	947	52	0	0	0	0	8	0	0	0	847	100	15	100
SERIOUS EMOTIONALLY DISTURBED	2061	123	842	22	10	1	837	41	51	38	562	37	25	19
LEARNING DISABLED	4871	196	1373	28	10	8	2189	47	76	38	1109	24	28	14
SPEECH IMPAIRED	1827	80	1472	96	75	94	61	2	2	2	25	1	2	3
ORING HANDICAPPED	227	8	2	1	3	22	1	0	1	11	374	99	7	26
BLIND/VISUALLY IMPAIRED	18	7	3	17	7	29	1	8	1	14	14	76	4	32
DEAF/HARD OF HEARING	183	10	75	14	5	50	13	8	2	70	138	78	2	20
OTHER HEALTH IMPAIRED	152	4	10	7	0	0	147	83	5	78	0	0	0	0
MULTIHANDICAPPED	158	4	0	0	0	0	136	88	1	75	33	14	3	73
TOTAL ABOVE	11990	896	2441	30	105	78	4282	37	203	34	2964	32	137	31
GIFTED OR TALENTED	528	12	340	64	4	50	142	37	1	8	45	9	1	8
DIST. OF COLUMBIA														
EMR/EMH	471	34	278	88	7	31	168	38	13	38	25	5	6	18
THR/THH	764	22	1	0	1	4	8	1	3	11	758	99	22	81
SERIOUS EMOTIONALLY DISTURBED	348	38	289	40	22	45	54	10	8	25	159	50	6	25
LEARNING DISABLED	1046	78	462	62	37	45	278	37	18	34	105	10	8	11
SPEECH IMPAIRED	617	37	518	84	38	78	41	7	3	6	67	9	6	14
ORING HANDICAPPED	152	3	1	1	1	33	1	1	1	33	150	99	1	37
BLIND/VISUALLY IMPAIRED	55	18	31	38	12	73	1	7	0	0	31	60	0	23
DEAF/HARD OF HEARING	85	13	11	20	6	67	71	38	4	21	77	63	1	8
OTHER HEALTH IMPAIRED	81	8	77	40	2	50	3	4	2	32	48	57	1	17
MULTIHANDICAPPED	33	8	0	0	0	0	7	6	2	32	31	94	0	67
TOTAL ABOVE	3520	245	1824	46	109	44	645	15	61	51	1253	38	88	74
GIFTED OR TALENTED	0	0	0	0	0	0	0	0	0	0	0	0	0	0

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\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF ROUNDOFF ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	SCHOOLS OFFERING PROGRAM	PUPILS IN OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCHLS *		PUPILS		100% SCHLS *		PUPILS		100% SCHLS *	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
FLORIDA														
EMR/EMH	23661	1122	1134	7	52	8	8547	40	231	29	12580	53	513	46
TIME/TIM	4683	143	30	1	5	3	118	3	12	8	4544	92	115	80
SERIOUS EMOTIONALLY DISTURB	8197	942	2918	41	283	39	953	15	99	15	2215	44	160	25
LEARNING DISABLED	28560	1950	19710	68	813	66	6499	23	212	15	2351	8	58	4
SPEECH IMPAIRED	35295	1320	24795	92	1735	97	731	3	18	1	279	1	10	1
ORING HANDICAPPED	1947	152	164	9	26	21	214	11	14	11	1567	80	61	50
BLIND/VISUALLY IMPAIRED	603	238	281	46	182	80	94	16	19	6	118	20	19	8
DEAF/HARD OF HEARING	1844	324	558	29	189	68	260	21	18	8	929	50	26	11
OTHER HEALTH IMPAIRED	668	184	426	65	52	50	75	11	12	2	137	24	28	41
MULTIHANDICAPPED	3044	398	1198	38	186	47	405	13	50	13	1440	47	92	22
TOTAL(AROVE)	107001	8858	81504	57	3053	52	16816	18	262	12	26678	29	1121	18
*GIFTED OR TALENTED	16445	1033	14358	77	853	83	3262	18	128	12	995	5	24	2
GEORGIA														
EMR/EMH	21158	1512	4026	13	164	11	12168	29	238	22	14970	48	593	29
TIME/TIM	2476	138	21	1	5	3	29	1	3	2	2416	64	125	91
SERIOUS EMOTIONALLY DISTURB	4083	425	2754	82	257	69	954	23	63	16	892	10	22	8
LEARNING DISABLED	17012	1188	13878	72	835	70	3044	12	127	11	672	5	42	4
SPEECH IMPAIRED	25139	1280	24048	96	1220	95	807	4	41	2	174	1	6	1
ORING HANDICAPPED	208	28	111	52	32	58	10	5	3	8	87	42	3	24
BLIND/VISUALLY IMPAIRED	941	222	371	84	261	90	32	2	11	4	28	9	10	4
DEAF/HARD OF HEARING	888	243	438	38	182	89	145	16	20	8	307	55	45	18
OTHER HEALTH IMPAIRED	1100	312	571	52	136	65	264	24	29	12	281	28	17	8
MULTIHANDICAPPED	807	100	350	43	42	43	28	8	5	9	201	47	29	59
TOTAL(AROVE)	84208	5422	48548	55	2037	57	17625	21	638	12	19998	24	924	17
*GIFTED OR TALENTED	27248	985	23465	86	842	84	2251	10	24	8	1527	6	48	5

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\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM



STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPIL PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1990 ELEMENTARY AND SECONDARY SCHOOL CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPIL IN OFFERING PROGRAM **	SCHOOLS IN PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPIL		100% SCHL *		PUPIL		100% SCHL *		PUPIL		100% SCHL *	
			NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI
EMR/EMH	1821	140	321	18	28	20	722	41	35	25	623	28	11	11
TIME/INT	411	23	5	1	0	0	8	2	1	2	447	87	48	41
SERIOUS EMOTIONALLY DISTURB	127	23	10	14	8	24	23	10	4	12	91	68	12	26
LEARNING DISABLED	4434	160	2518	87	45	27	1852	25	24	14	362	8	5	2
SPEECH IMPAIRED	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ORING HANDICAPPED	129	8	1	1	1	17	0	0	0	0	138	25	5	41
BLIND/VISUALLY IMPAIRED	40	2	18	40	2	43	2	5	0	0	22	55	2	28
DEAF/HARD OF HEARING	226	17	24	16	4	24	25	11	2	18	112	21	2	18
OTHER HEALTH IMPAIRED	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MULTIHANDICAPPED	81	17	2	4	2	12	8	8	4	24	22	90	10	58
TOTAL ABOVE	2188	431	2812	41	81	72	2248	22	71	17	1622	27	81	19
GIFTED OR TALENTED	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EMR/EMH	1592	230	309	19	47	10	599	26	78	23	684	42	82	77
TIME/INT	270	60	2	1	2	2	25	12	27	26	242	87	27	13
SERIOUS EMOTIONALLY DISTURB	296	29	125	47	26	40	84	28	26	22	87	28	4	5
LEARNING DISABLED	6042	228	4788	78	128	47	1223	20	21	8	40	1	1	0
SPEECH IMPAIRED	3091	206	2893	84	241	37	129	8	10	4	20	1	4	2
ORING HANDICAPPED	21	49	22	22	12	37	18	25	19	22	30	42	10	72
BLIND/VISUALLY IMPAIRED	83	23	48	58	40	68	24	49*	27	44	0	0	0	0
DEAF/HARD OF HEARING	147	62	124	81	54	89	11	2	2	5	2	1	1	7
OTHER HEALTH IMPAIRED	195	54	48	55	18	30	123	21	26	48	2	4	2	12
MULTIHANDICAPPED	25	18	8	26	5	28	8	22	8	44	17	41	8	26
TOTAL ABOVE	11841	1289	8328	71	823	60	2022	20	261	20	1220	10	318	8
GIFTED OR TALENTED	1829	111	1812	89	110	99	12	1	0	0	0	0	0	0

\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPIL IN PROGRAM BECAUSE OF REPORTING ERROR  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN PROGRAM	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCLS		PUPILS		100% SCLS		PUPILS		100% SCLS	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
ILLINOIS														
EMR/EMH	35784	1648	1376	4	35	2	2763	53	340	21	76231	25	1044	63
TIME/FAM	3884	190	1	0	1	1	21	1	1	1	2872	99	16	62
SERIOUS EMOTIONALLY DISTURB	14053	737	3876	29	112	16	2225	16	112	15	7804	56	368	66
LEARNING DISABLED	61476	2980	38638	63	1671	63	8689	16	255	6	15168	21	617	77
SPEECH IMPAIRED	64846	3163	50521	82	3008	82	3748	5	62	3	1578	3	21	3
DEAF/HANDICAPPED	1968	112	113	6	32	27	182	7	11	8	1215	82	68	60
BLIND/VISUALLY IMPAIRED -	1200	348	361	28	182	67	603	42	64	18	358	30	95	27
DEAF/HARD OF HEARING	3632	334	181	5	54	12	223	6	22	8	2232	62	234	70
OTHER HEALTH IMPAIRED	822	26	362	32	25	25	261	32	15	18	466	66	26	48
MULTIHANDICAPPED	3202	364	346	6	16	2	1285	40	26	39	1676	52	125	48
TOTAL ABOVE	181200	9656	95463	53	1085	16	28105	16	963	11	68635	33	2725	31
GIFTED OR TALENTED	30050	653	31682	72	509	26	3184	2	55	8	8915	30	20	11
INDIANA														
EMR/EMH	18212	1022	1522	8	65	6	6115	31	216	21	12069	61	482	42
TIME/FAM	2865	123	0	0	0	0	122	8	16	13	2782	84	102	62
SERIOUS EMOTIONALLY DISTURB	225	110	62	9	26	24	106	15	36	24	552	26	84	40
LEARNING DISABLED	4972	561	2872	59	422	22	209	14	53	9	1277	27	20	12
SPEECH IMPAIRED	23776	963	22586	82	622	66	309	1	5	1	480	2	32	2
DEAF/HANDICAPPED	654	68	57	11	25	61	20	1	2	4	382	84	12	35
BLIND/VISUALLY IMPAIRED	160	64	95	59	66	22	18	8	6	9	52	23	8	15
DEAF/HARD OF HEARING	517	183	559	61	106	25	92	10	3	3	265	28	15	11
OTHER HEALTH IMPAIRED	11	5	1	9	1	20	5	15	2	40	5	45	3	80
MULTIHANDICAPPED	960	98	12	1	2	10	3	0	2	3	644	98	53	26
TOTAL ABOVE	64258	3184	32836	51	1663	52	7845	16	325	10	16880	35	825	36
GIFTED OR TALENTED	645	11	25	6	1	8	0	0	0	0	616	55	10	51

\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATE TAKEN FROM FALL 1976 ELEMENTARY SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN OFFERING PROGRAM **	SCHOOLS	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS	
			NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI
EMOTIONALLY DISTURBED	8318	674	1070	12	142	31	3400	41	248	37	3973	87	206	39
LEARNING DISABLED	1404	312	0	0	0	0	101	1	37	38	1303	93	83	78
PHYSICALLY HANDICAPPED	805	178	248	41	87	83	131	14	33	13	357	37	96	28
MENTALLY IMPAIRED	1803	1205	13441	89	1033	81	1375	8	83	4	789	4	26	3
DEAF/HARD OF HEARING	8748	848	8138	100	853	98	5	0	1	24	0	1	1	1
OTHER HANDICAPPED	210	69	60	18	10	31	22	2	10	34	238	18	20	41
DEAF/HARD OF HEARING	76	69	87	43	27	63	18	25	19	37	9	12	5	10
OTHER HANDICAPPED	845	183	252	37	120	23	78	18	26	16	115	38	13	8
DEAF/HARD OF HEARING	82	13	22	28	34	75	2	3	13	68	74	1	1	1
OTHER HANDICAPPED	613	60	18	15	10	31	76	15	19	38	258	30	28	48
TOTAL ABOVE	34856	3360	23846	83	1881	84	1487	15	823	18	3204	20	822	15
GIFTED OR PAIRED	735	63	818	84	39	87	118	18	8	3	7	0	1	3
EMOTIONALLY DISTURBED	8852	488	189	6	3	1	2450	33	133	38	3804	60	318	43
LEARNING DISABLED	1158	98	12	1	3	2	82	4	1	1	1101	85	73	39
PHYSICALLY HANDICAPPED	841	18	8	11	18	394	33	11	14	483	56	39	50	
MENTALLY IMPAIRED	7724	687	5678	73	823	78	1338	18	10	1	833	11	37	5
DEAF/HARD OF HEARING	7180	602	6872	81	883	83	188	2	8	3	552	7	5	2
OTHER HANDICAPPED	100	43	30	30	8	21	33	22	20	87	18	13	30	
DEAF/HARD OF HEARING	73	63	41	83	84	8	7	10	8	8	20	37	3	8
OTHER HANDICAPPED	308	88	160	52	87	73	66	11	5	8	82	27	8	8
DEAF/HARD OF HEARING	48	15	12	33	5	38	37	68	8	23	8	12	8	20
OTHER HANDICAPPED	231	83	31	24	32	61	3	1	1	3	166	78	20	48
TOTAL ABOVE	27216	2070	15335	58	1183	58	8304	12	188	8	2174	29	835	31
GIFTED OR PAIRED	1188	87	1180	87	82	85	72	4	3	3	134	28	12	12

\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1988 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

REMARKS	PUPILS IN OFFERING PROGRAM	SCHOOLS	LESS THAN 10 HOURS				MORE THAN 10 HOURS PULL-TIME				PULL-TIME			
			PUPILS		100% SCHLS		PUPILS		100% SCHLS		PUPILS		100% SCHLS	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
KENTUCKY														
EMR/IMR	18097	601	2473	14	58	11	6364	35	210	26	8258	51	332	45
MR/IMR	3402	150	14	0	0	0	160	2	11	2	2732	93	134	48
SEVERE EMOTIONALLY DISTURB	814	82	84	14	18	22	225	32	25	30	301	49	33	40
LEARNING DISABLED	6316	363	2790	46	108	28	723	36	68	24	1189	18	55	15
SPEECH IMPAIRED	10804	582	18758	97	535	62	29	1	11	3	318	3	14	3
ORINO HANDICAPPED	244	24	2	3	4	0	82	28	2	8	123	71	13	50
BLIND/VISUALLY IMPAIRED	80	32	33	50	18	58	12	32	8	78	14	22	2	6
DEAF/HARD OF HEARING	209	83	84	26	32	60	50	24	6	11	105	50	11	31
OTHER HEALTH IMPAIRED	133	26	88	18	28	32	24	3	12	14	11	2	9	
MULTIHANDICAPPED	21	10	0	0	0	0	10	14	4	40	51	86	8	60
TOTAL ABOVE	44948	2102	21901	45	819	39	9382	21	369	18	12640	30	826	20
GIFTED OR TALENTED	1804	20	33	5	6	35	834	33	6	23	1132	53	0	45
LOUISIANA														
EMR/IMR	13207	752	343	3	34	3	2768	15	112	18	14523	82	553	73
MR/IMR	3332	113	0	0	0	0	48	3	8	8	2280	98	98	88
SEVERE EMOTIONALLY DISTURB	3232	187	280	13	51	26	411	18	39	15	1522	89	88	43
LEARNING DISABLED	10324	531	3114	31	153	28	3814	37	107	20	3248	32	126	24
SPEECH IMPAIRED	32722	668	21194	83	811	93	855	4	30	5	678	3	18	2
ORINO HANDICAPPED	313	30	25	8	20	14	8	14	8	22	152	28	15	50
BLIND/VISUALLY IMPAIRED	181	45	32	25	33	33	45	28	9	21	64	40	6	12
DEAF/HARD OF HEARING	678	91	189	33	53	58	91	16	11	15	298	32	14	18
OTHER HEALTH IMPAIRED	112	20	33	38	10	50	33	28	8	30	51	44	4	20
MULTIHANDICAPPED	303	41	12	1	3	2	41	18	8	15	250	82	29	21
TOTAL ABOVE	58394	3488	29325	13	833	34	8181	14	337	15	23220	41	931	28
GIFTED OR TALENTED	3601	104	7492	43	58	84	882	25	31	30	1095	21	11	11

\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

NAME	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCHLS.		PUPILS		100% SCHLS.		PUPILS		100% SCHLS.		
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	
EM/IMP	3445	370	809	78	92	26	1278	40	86	23	1166	34	78	71
EM/IMP	811	87	8	2	2	4	58	14	34	42	344	84	31	54
SERIOUS EMOTIONALLY DISTURB	1187	182	783	87	82	81	391	35	48	25	85	8	11	8
LEARNING DISABLED	8282	603	8435	87	384	18	810	10	37	7	538	4	13	3
SPEECH IMPAIRED	5265	818	1605	84	478	85	65	11	6	1	164	3	24	8
ORINO HANDICAPPED	40	36	21	82	18	50	11	23	11	431	6	23	7	18
BLIND/VISUALLY IMPAIRED	48	26	21	65	18	84	17	36	4	18	0	0	0	0
DEAF/HARD OF HEARING	138	66	170	80	48	10	20	14	12	18	8	6	6	8
OTHER HEALTH IMPAIRED	69	32	28	57	13	34	28	41	13	41	2	3	7	4
MULTIHANDICAPPED	304	85	188	82	78	46	80	20	18	27	87	78	71	23
TOTAL ABOVE	13171	1876	72541	33	1178	82	2620	18	254	14	7106	12	1194	10
GIFTED OR TALENTED	4	2	8	100	2	100	0	0	0	0	0	0	0	0
MARYLAND														
EM/IMP	11678	782	1966	17	135	18	2678	22	118	18	7037	80	584	78
EM/IMP	4416	54	58	1	0	0	244	8	8	8	4120	82	71	28
SERIOUS EMOTIONALLY DISTURB	1817	320	807	28	127	42	278	12	28	12	1187	82	73	25
LEARNING DISABLED	33707	1142	27814	88	437	40	8160	18	54	5	6633	17	138	10
SPEECH IMPAIRED	21408	1025	19500	81	762	73	287	3	13	7	1517	7	28	5
ORINO HANDICAPPED	457	48	50	12	19	40	7	3	3	4	283	86	71	44
BLIND/VISUALLY IMPAIRED	309	188	208	68	115	74	82	17	12	8	48	16	23	16
DEAF/HARD OF HEARING	867	208	360	42	146	70	182	17	9	4	352	41	79	14
OTHER HEALTH IMPAIRED	185	40	57	31	18	18	8	3	5	12	124	87	16	40
MULTIHANDICAPPED	758	35	44	17	13	43	14	8	8	17	201	78	8	78
TOTAL ABOVE	7204	3840	46878	81	1835	48	6828	17	254	7	20604	27	682	18
GIFTED OR TALENTED	1228	27	707	57	25	64	711	23	8	72	308	22	3	8

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\* SUM OF PUPILS BY AMOUNT OF TIME WAS NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM



\* SUM OF PEOPLE AT ACCOUNT OF TIME MAY NOT EQUAL TOTAL PEOPLE IN PROGRAM BECAUSE OF ROUNDING ERRORS  
\* SCHOOLS IN WHICH 100% OF PEOPLE SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

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PEOPLE IN SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM									
DATE TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY									
STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PEOPLE PARTICIPATING IN SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM									
PEOPLE AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM									
LESS THAN 10 HOURS									
10 TO 19 HOURS									
20 TO 39 HOURS									
40 TO 59 HOURS									
60 TO 79 HOURS									
80 TO 99 HOURS									
100% OF TIME									
TOTAL									
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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	
MINNESOTA														
EM/EMH	12244	1014	2818	18	111	11	7837	65	448	41	2047	17	57	10
EM/EMH	2496	228	27	1	3	1	856	16	48	35	7812	81	128	69
SENSIOUS EMOTIONALLY DISTURBED	1272	188	405	30	63	32	325	16	6	28	712	54	12	72
LEARNING DISABLED	30341	1849	29133	83	1185	78	2538	13	191	7	1610	8	40	2
SPEECH IMPAIRED	18118	1385	18572	51	1290	83	1060	6	12	3	582	3	16	1
ORTH HANDICAPPED	688	204	748	40	114	57	105	16	48	21	295	41	28	16
BLIND/VISUALLY IMPAIRED	444	218	778	60	142	67	117	72	57	27	72	16	12	6
DEAF/HARD OF HEARING	1181	408	882	59	218	28	204	18	27	8	271	24	22	8
OTHER HEALTH IMPAIRED	815	94	415	51	85	77	61	7	3	1	329	12	17	20
MULTIHANDICAPPED	282	72	27	28	31	28	78	37	28	31	127	47	22	73
TOTAL(ABOVE)	88150	8342	66022	87	2287	83	12981	20	854	16	8942	12	441	6
GIFTED OR TALENTED	4247	187	3485	81	187	80	442	10	6	4	715	6	6	2
MISSISSIPPI														
EM/EMH	12298	878	578	5	20	2	6187	47	188	22	8570	52	788	47
EM/EMH	1805	121	0	0	0	0	77	5	8	7	1478	95	108	85
SENSIOUS EMOTIONALLY DISTURBED	33	11	8	18	8	85	9	27	7	16	18	85	4	36
LEARNING DISABLED	2967	180	1225	41	79	27	1221	41	42	27	601	17	25	13
SPEECH IMPAIRED	7062	288	8817	57	268	57	147	6	5	2	94	1	6	2
ORTH HANDICAPPED	28	8	15	15	2	28	0	0	2	28	17	44	3	28
BLIND/VISUALLY IMPAIRED	21	5	8	15	2	40	0	0	0	0	17	51	2	60
DEAF/HARD OF HEARING	184	33	45	21	11	24	54	30	8	25	22	45	9	28
OTHER HEALTH IMPAIRED	70	8	27	12	3	28	57	81	4	50	1	1	1	13
MULTIHANDICAPPED	94	6	20	0	0	0	0	0	0	0	94	100	6	100
TOTAL(ABOVE)	24743	1348	9704	38	272	30	8717	76	281	71	8723	36	428	22
GIFTED OR TALENTED	1682	87	1418	94	60	75	174	10	10	15	87	8	6	5

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\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS' PARTICIPATION IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

PUPILS IN OFFERING PROGRAM	SCHOOLS PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL TIME				FULL-TIME				
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	
MISSOURI														
EM/EMH	22028	1099	373	4	73	2	3992	41	345	31	11284	54	348	33
EM/EMH	318	48	9	0	1	3	10	1	10	21	708	98	33	23
SERIOUS EMOTIONALLY DISTURB	2497	226	214	16	98	25	122	3	30	73	1888	16	314	80
LEARNING DISABLED	21208	1149	18236	71	635	53	2425	13	189	16	2382	12	142	12
SPEECH IMPAIRED	20600	1223	21847	98	1182	94	260	3	22	2	242	1	8	1
OBINO HANDICAPPED	816	86	22	3	17	23	38	8	13	14	704	86	49	33
DEAF/DEAF/HARD OF HEARING	145	44	43	30	13	50	25	20	6	16	8	28	11	25
OTHER HEALTH IMPAIRED	548	122	180	73	80	74	19	3	11	3	323	53	16	12
MULTIHANDICAPPED	375	26	100	28	13	61	34	3	10	36	322	82	1	4
TOTAL MISSOURI	528	43	17	3	6	52	73	14	33	42	422	80	13	37
GRITTED OR TALENTED	81788	4082	48808	50	2144	82	12206	14	681	1	18726	34	731	13
MISSOURI	8246	100	4881	23	75	36	613	13	2	3	743	12	8	8
MONTANA														
EM/EMH	1820	251	278	16	78	25	400	24	84	25	452	56	103	38
EM/EMH	442	83	0	0	0	0	22	16	32	24	280	84	81	68
SERIOUS EMOTIONALLY DISTURB	348	63	34	20	26	40	68	24	8	12	115	48	24	27
LEARNING DISABLED	2772	280	2954	78	255	98	824	68	48	12	185	5	18	4
SPEECH IMPAIRED	2872	244	1881	33	206	31	20	1	1	0	8	2	2	4
OBINO HANDICAPPED	64	16	30	43	13	73	7	7	11	1	13	3	11	11
DEAF/DEAF/HARD OF HEARING	28	48	11	68	14	74	6	21	1	8	1	13	0	0
OTHER HEALTH IMPAIRED	53	33	81	84	32	89	7	3	3	3	3	3	1	2
MULTIHANDICAPPED	60	12	11	28	1	8	131	82	3	28	8	16	5	67
TOTAL MONTANA	81	20	4	7	3	7	3	11	4	14	50	82	21	33
GRITTED OR TALENTED	8162	1180	8347	88	874	57	1228	13	184	1	1707	13	224	20
MONTANA	25	3	25	100	2	100	0	0	0	0	0	0	0	0

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\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	SCHOOLS OFFERING PROGRAM	PUPILS IN PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCHLS		PUPILS		100% SCHLS		PUPILS		100% SCHLS	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
NEBRASKA														
EMR/EDM	7778	682	3096	40	729	34	3436	44	142	31	1245	14	100	18
EDR/EDM	845	63	0	0	0	0	18	2	0	0	828	98	60	18
SEVERE EMOTIONALLY DISTURB	631	154	379	41	64	47	154	14	26	18	269	41	22	14
LEARNING DISABLED	6308	684	6482	82	482	88	1042	14	64	10	175	2	5	1
SPEECH IMPAIRED	12454	1030	12237	94	1018	98	3	0	1	0	214	2	7	1
ORINDO HANDICAPPED	173	87	45	26	26	55	64	38	3	3	83	26	24	26
ORINDO/VISUALLY IMPAIRED	126	36	104	26	28	81	12	14	3	3	14	10	4	8
DEAF/HEARD OF HEARING	250	114	173	88	51	80	72	8	14	12	54	22	6	8
OTHER HEALTH IMPAIRED	110	50	83	64	19	26	13	13	8	12	34	31	24	48
MULTIHANDICAPPED	64	8	6	11	8	57	0	0	0	0	81	21	4	44
TOTAL(ABOVE)	28442	2943	21896	73	2010	64	4786	14	248	8	3062	10	250	8
GIFTED OR TALENTED	4804	144	4327	83	123	54	478	2	3	2	316	8	5	2
NEVADA														
EMR/EDM	1248	173	142	11	11	8	912	54	63	46	254	27	32	21
EDR/EDM	345	38	0	0	0	0	3	1	3	8	344	98	32	81
SEVERE EMOTIONALLY DISTURB	326	34	26	10	2	8	28	10	4	12	220	60	28	24
LEARNING DISABLED	4030	192	1222	30	25	18	1812	40	81	37	1183	29	22	14
SPEECH IMPAIRED	2358	130	3188	100	150	100	0	0	0	0	0	0	0	0
ORINDO HANDICAPPED	216	23	116	54	14	42	12	8	12	83	81	26	3	8
ORINDO/VISUALLY IMPAIRED	47	15	27	83	8	83	30	83	8	40	0	0	0	0
DEAF/HEARD OF HEARING	132	26	26	32	14	40	22	23	18	48	54	43	3	8
OTHER HEALTH IMPAIRED	98	1	0	0	0	0	0	0	0	0	18	100	1	100
MULTIHANDICAPPED	108	11	3	1	1	8	31	8	3	18	182	83	2	64
TOTAL(ABOVE)	8804	648	2727	43	204	22	2650	30	183	26	2416	27	124	21
GIFTED OR TALENTED	1859	104	1815	76	105	64	44	2	3	3	0	0	0	0

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN OFFERING PROGRAM **	SCHOOLS PROGRAMS	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCLS *		PUPILS		100% SCLS *		PUPILS		100% SCLS *	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
NEW HAMPSHIRE														
EMR/IMR	4123	123	375	30	44	33	358	32	31	23	642	46	33	36
TEMR/IMR	113	79	16	17	3	10	16	14	10	34	77	68	14	85
SERIOUS EMOTIONALLY DISTURB	191	44	64	62	16	34	25	16	17	27	72	16	6	30
LEARNING DISABLED	3282	216	2987	80	120	60	646	13	34	16	338	7	76	11
SPEECH IMPAIRED	1040	173	1758	98	146	64	46	3	14	6	34	7	7	4
ORIENT HANDICAPPED	47	41	67	77	31	26	7	6	3	7	13	16	3	7
BLIND/VISUALLY IMPAIRED	44	33	76	64	16	38	1	6	3	6	13	20	3	11
DEAF/HARD OF HEARING	136	36	51	34	12	64	17	8	3	6	77	53	11	31
OTHER HEALTH IMPAIRED	46	75	35	76	17	68	2	8	1	4	7	15	6	30
MULTIHANDICAPPED	177	40	48	76	6	13	40	33	16	60	66	50	17	47
TOTAL (ABOVE)	7086	758	5016	71	433	67	956	13	126	13	1108	16	137	13
GIFTED OR TALENTED	1607	38	625	41	16	46	434	29	18	43	457	30	3	6
NEW JERSEY														
EMR/IMR	12581	876	911	6	77	6	7729	33	719	34	9933	77	498	67
TEMR/IMR	3257	313	0	0	0	0	11	3	13	6	2180	66	183	46
SERIOUS EMOTIONAL DISTURB	4877	638	831	14	172	28	688	10	133	31	3088	67	343	38
LEARNING DISABLED	30611	1231	8382	41	261	25	4307	11	181	16	2912	38	363	30
SPEECH IMPAIRED	10881	429	10406	98	373	95	368	3	20	3	187	3	19	3
ORIENT HANDICAPPED	345	95	25	13	54	63	7	3	7	7	258	25	33	25
BLIND/VISUALLY IMPAIRED	183	17	12	33	41	77	27	14	8	14	68	54	8	11
DEAF/HARD OF HEARING	568	130	142	29	65	50	37	7	19	15	366	68	43	33
OTHER HEALTH IMPAIRED	1997	161	467	33	54	28	646	33	18	17	678	44	81	34
MULTIHANDICAPPED	1506	195	308	19	34	17	118	8	50	29	983	35	60	46
TOTAL (ABOVE)	54124	4016	21088	34	1228	31	6133	14	672	13	29405	46	1638	34
GIFTED OR TALENTED	3416	108	1938	64	91	64	976	16	27	3	1083	20	71	20

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM APRIL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		
		NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	
NEW MEXICO														
EM/100%	2784	205	315	10	44	14	1246	34	87	21	1778	53	108	38
100/100%	275	20	7	0	2	3	34	8	11	11	227	95	87	81
SERIOUS EMOTIONALLY DISTURBED	290	147	272	34	62	44	179	18	18	11	887	48	78	18
LEARNING DISABLED	2216	471	554	76	218	48	1317	18	20	6	440	8	29	8
SPEECH IMPAIRED	2023	179	1919	90	148	83	0	0	3	7	29	1	4	7
ORIGIN HANDICAPPED	95	75	18	16	8	32	4	4	3	12	78	80	12	47
BLIND/VISUALLY IMPAIRED	50	50	20	48	22	84	0	0	0	0	20	34	9	50
DEAF/HARD OF HEARING	182	84	103	54	32	58	7	8	6	11	12	29	13	24
OTHER HEALTH IMPAIRED	23	12	29	91	10	77	3	5	3	14	1	3	1	8
MULTIHANDICAPPED	212	22	22	10	18	78	20	8	8	17	188	80	43	82
TOTAL ABOVE	14883	1349	8464	58	684	51	2917	18	168	12	2715	22	260	71
GIFTED OR TALENTED	731	160	607	63	160	54	116	18	8	8	6	1	2	7
NEW YORK														
EM/100%	28021	1423	3216	9	129	6	2783	12	226	17	22815	79	857	60
100/100%	4554	214	1	0	1	0	2	0	0	0	1547	100	718	99
SERIOUS EMOTIONALLY DISTURBED	14095	812	1272	10	199	27	399	6	80	15	11824	87	282	42
LEARNING DISABLED	23721	1325	18748	54	816	48	2218	8	78	6	12244	34	444	34
SPEECH IMPAIRED	22843	1181	23879	100	1117	88	54	0	18	1	89	0	3	0
ORIGIN HANDICAPPED	2005	113	201	9	27	74	8	0	2	2	3090	81	82	73
BLIND/VISUALLY IMPAIRED	649	282	220	25	208	72	35	5	74	8	214	87	47	18
DEAF/HARD OF HEARING	1681	286	452	31	208	72	24	2	17	8	874	87	58	24
OTHER HEALTH IMPAIRED	2474	231	1042	42	184	48	250	14	28	17	1034	42	86	21
MULTIHANDICAPPED	4886	184	53	7	7	8	642	9	22	18	4034	87	110	72
TOTAL ABOVE	118820	5787	88288	41	2817	85	8329	7	522	6	60196	62	2172	27
GIFTED OR TALENTED	3823	181	3042	85	121	83	0	0	0	0	371	20	8	4

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PERCENT OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA FROM FALL 1974 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

SCHOOLS OFFERING PROGRAM	PUPILS IN PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS	
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
NORTH CAROLINA													
EM/EMH	32383	1549	4.8	15429	48	681	44	12175	38	333	21	1494	18
EM/EMH	4041	285	7.1	126	3.1	19	103	2	33	12	2603	64	
SERIOUS EMOTIONAL DISTURB	990	183	18.4	29	2.9	54	34	206	21	42	26	400	40
LEARNING DISABLED	14908	1021	6.8	18673	88	810	39	1877	11	67	9	488	3
SPRUCH IMPAIRED	22222	1123	5.1	21200	97	1098	87	608	2	28	2	44	5
ORING HANDICAPPED	425	42	10	14	3.3	18	4	6	12	257	62	21	50
BLIND/VISUALLY IMPAIRED	186	66	35.5	150	81	94	56	16	9	2	3	1	1
DEAF/HARD OF HEARING	263	110	41.8	203	77	85	32	42	12	9	8	142	54
OTHER HEALTH IMPAIRED	225	28	12.4	14	6.2	14	6.2	27	16	2	27	82	41
MULTIHANDICAPPED	263	61	23.2	83	31.6	12	26	16	6	2	14	326	82
TOTAL/BOY	78219	4458	5.7	83682	87	2916	66	16100	19	953	12	11528	15
GRATED OR TAUGHT	37824	822	2.2	29989	22	611	22	4492	12	88	11	2052	5
NORTH CAROLINA													
EM/EMH	1259	111	8.8	9	0.7	0	0	288	21	22	31	662	28
EM/EMH	278	25	9.0	2	0.7	0	0	12	4	0	0	255	82
SERIOUS EMOTIONAL DISTURB	104	20	19.2	2	1.9	2	10	45	47	18	60	25	27
LEARNING DISABLED	1952	212	10.8	1294	66	188	88	80	4	16	7	25	4
SPRUCH IMPAIRED	2838	263	9.3	2703	95	288	88	92	2	2	1	81	2
ORING HANDICAPPED	6	2	33.3	0	0	0	0	0	0	0	0	6	100
BLIND/VISUALLY IMPAIRED	29	20	68.9	12	41.4	5	17	22	62	14	20	0	0
DEAF/HARD OF HEARING	69	48	69.6	40	58.0	24	31	11	18	11	22	18	26
OTHER HEALTH IMPAIRED	82	22	26.8	55	67.1	20	21	6	8	1	9	2	3
MULTIHANDICAPPED	42	6	14.3	29	69.0	8	19	1	2	0	0	16	40
TOTAL/BOY	6846	241	3.5	4620	70	812	66	482	2	69	11	1478	22
GRATED OR TAUGHT	100	21	21.0	100	100	21	100	0	0	0	0	0	0

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1974 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

PUPILS IN SPECIAL PROGRAM **	SCHOOLS PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	
OHIO														
EMR/LMR	60052	7214	990	2	14	1	10494	12	348	13	48593	81	1427	70
TIME/ID	4	2	0	0	0	0	0	0	0	4	100	3	100	6
SERIOUS EMOTIONALLY DISTURB	885	44	134	20	10	22	38	8	2	7	321	75	23	68
LEARNING DISABLED	30264	1642	8622	48	222	48	4587	22	191	11	4199	30	305	18
SPEECH IMPAIRED	33527	1820	30598	81	1408	82	1306	4	47	3	1632	5	54	4
OHIO HANDICAPPED	1812	15	63	2	10	12	168	8	1	1	1548	47	54	22
BLIND/VISUALLY IMPAIRED	688	112	101	18	62	42	106	18	8	6	425	47	40	38
DEAF/HARD OF HEARING	1832	152	264	24	28	50	280	18	8	6	1380	21	48	21
OTHER HEALTH IMPAIRED	30	18	5	10	2	21	0	0	0	0	32	90	11	98
MULTIHANDICAPPED	120	24	14	8	1	4	40	24	8	33	114	68	14	46
TOTAL ABOVE	119442	6644	42059	25	2248	40	17014	14	553	8	80679	51	2146	22
GRATED OR TALENTED	2250	88	1585	22	10	18	1107	14	4	2	4458	63	65	44
OKLAHOMA														
EMR/LMR	10482	722	748	2	128	18	4482	42	272	38	5254	50	220	20
TIME/ID	2151	186	1	0	1	1	58	2	40	22	5121	86	144	72
SERIOUS EMOTIONALLY DISTURB	212	45	28	12	1	2	89	22	28	44	512	65	12	28
LEARNING DISABLED	18488	896	22921	82	424	42	3268	24	182	21	285	4	35	4
SPEECH IMPAIRED	12458	411	12700	89	801	95	155	1	7	1	3	0	2	0
OHIO HANDICAPPED	179	9	30	12	1	14	0	0	0	0	148	83	48	84
BLIND/VISUALLY IMPAIRED	30	4	0	0	0	0	4	22	1	25	22	12	2	50
DEAF/HARD OF HEARING	382	121	118	30	95	28	172	45	6	8	94	28	7	2
OTHER HEALTH IMPAIRED	28	28	8	22	2	10	6	12	0	0	25	64	25	88
MULTIHANDICAPPED	220	48	88	30	10	21	52	15	2	4	122	83	5	10
TOTAL ABOVE	48122	2821	26272	82	1488	51	10212	22	647	14	8220	21	442	14
GRATED OR TALENTED	3062	120	1422	62	86	72	138	4	8	6	1228	45	42	22

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\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS-BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	SCHOOLS OFFERING PROGRAM **	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		
		NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	
OREGON														
EMR/LMR	4344	396	353	6	73	6	1786	40	108	32	7333	54	176	41
TIME/IME	690	176	12	1	0	0	18	5	15	13	621	83	89	73
SERIOUS EMOTIONALLY DISTURB	5130	193	397	34	74	43	171	16	27	17	571	61	61	78
LEARNING DISABLED	18044	848	15513	6	437	76	1446	6	34	6	1005	6	39	7
SPEECH IMPAIRED	8377	438	6198	84	673	87	141	1	3	0	738	3	13	3
ORTHOMANICAPPED	406	58	325	65	60	41	43	71	7	7	140	34	17	17
BLIND/VISUALLY IMPAIRED	117	100	78	67	67	67	22	18	21	21	16	14	11	11
DEAF/HARD OF HEARING	446	185	377	46	136	76	61	17	21	11	307	47	74	13
OTHER HEALTH IMPAIRED	366	46	61	34	27	66	47	17	14	29	137	49	6	17
MULTIHANDICAPPED	306	58	131	39	16	27	64	16	20	30	134	44	13	73
TOTAL ABOVE	38613	2463	36136	73	7513	61	3836	11	386	11	5588	16	431	18
OFFERED OR TALENTED	7303	79	760	66	67	77	43	4	3	4	353	29	17	77
PENNSYLVANIA														
EMR/LMR	33847	1436	636	7	24	3	6544	36	389	37	73663	70	647	37
TIME/IME	3662	176	0	0	0	0	100	3	6	3	3793	37	160	61
SERIOUS EMOTIONALLY DISTURB	4716	344	725	18	78	8	948	77	47	14	3535	50	303	84
LEARNING DISABLED	17716	1062	7717	44	366	34	4176	74	729	31	5628	53	304	76
SPEECH IMPAIRED	37867	1184	34761	31	1091	67	1009	4	38	3	1596	6	51	1
ORTHOMANICAPPED	1013	84	107	11	37	60	0	0	0	0	906	89	34	40
BLIND/VISUALLY IMPAIRED	573	264	767	37	709	76	51	6	18	6	225	29	38	14
DEAF/HARD OF HEARING	500	574	560	56	797	73	84	10	14	4	338	31	46	13
OTHER HEALTH IMPAIRED	185	36	138	35	36	676	8	4	8	31	35	71	5	17
MULTIHANDICAPPED	696	38	3	1	3	13	29	4	6	31	664	55	73	61
TOTAL ABOVE	67117	8064	35384	39	3087	41	16942	16	764	16	78775	44	1311	34
OFFERED OR TALENTED	78057	1306	20076	73	1764	86	2071	7	38	3	6136	16	63	7

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\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

PUPILS IN OFFERING PROGRAM **	SCHOOLS NUMBER	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCHOOLS *		PUPILS		100% SCHOOLS *		PUPILS		100% SCHOOLS *		
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	
MAINE ISLAND														
EMR/EMR	1780	136	101	8	10	12	374	15	22	46	1323	11	87	84
MR/EMR	817	31	18	3	1	3	20	7	3	10	368	88	37	87
MR/EMR	202	40	34	11	15	21	33	11	7	13	325	28	19	40
MR/EMR	8609	243	2010	63	137	62	681	10	26	11	1780	77	46	18
MR/EMR	2878	177	2840	86	178	68	47	0	0	0	0	0	1	1
MR/EMR	181	25	13	8	7	78	3	2	3	17	170	88	15	40
MR/EMR	28	18	77	83	18	89	0	0	0	0	3	7	7	11
MR/EMR	84	21	56	58	15	93	0	0	0	0	8	13	1	4
MR/EMR	341	33	150	83	21	84	18	7	3	8	73	30	7	8
MR/EMR	87	18	8	8	3	17	8	8	1	8	64	17	14	78
TOTAL(ABOVE)	10718	754	6338	30	111	84	863	8	85	8	3518	33	314	78
GIFTED OR TALENTED	134	5	58	46	3	40	25	18	2	40	34	27	1	20
SOUTH CAROLINA														
EMR/EMR	22899	813	10990	48	338	38	4713	18	86	10	7788	24	753	28
MR/EMR	2184	138	18	1	10	3	43	2	10	2	2173	97	117	15
MR/EMR	2780	337	1658	88	203	60	343	17	44	14	788	28	87	18
MR/EMR	10088	833	8265	83	877	78	811	8	68	8	777	8	40	6
MR/EMR	15099	831	14374	94	811	87	238	7	10	7	228	1	8	1
MR/EMR	407	118	714	35	87	88	4	1	4	2	388	64	37	77
MR/EMR	287	184	267	81	194	84	18	8	7	4	3	1	1	1
MR/EMR	561	188	796	33	778	80	53	8	7	4	213	28	15	8
MR/EMR	845	54	801	85	45	80	82	8	4	2	87	10	4	11
MR/EMR	88	18	18	27	7	43	5	8	7	13	43	85	4	28
TOTAL(ABOVE)	38174	3168	37153	87	2021	65	8980	11	743	8	12441	72	344	17
GIFTED OR TALENTED	7788	33	3137	84	82	85	58	3	4	8	78	3	4	8

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	PUPILS IN OFFERING PROGRAM **	SCHOOLS PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL TIME				FULL-TIME			
			PUPILS		100% SCLS		PUPILS		100% SCLS		PUPILS		100% SCLS	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
SOUTH CAROLINA														
EMR/EMH	1133	114	100	6	5	4	369	42	38	34	551	48	48	42
EMH/EMH	300	55	27	9	11	30	28	10	5	4	244	81	38	65
SEVERE EMOTIONALLY DISTURB	21	9	1	5	1	11	3	14	5	12	81	5	5	68
LEARNING DISABLED	1226	61	979	26	53	68	168	14	11	14	92	7	1	9
SPEECH IMPAIRED	2328	163	2312	99	168	87	11	0	3	1	5	0	2	1
DEAF/HANDICAPPED	8	6	0	0	0	0	7	78	4	82	2	32	2	32
BLIND/VISUALLY IMPAIRED	6	3	0	0	0	0	5	89	4	80	1	17	1	70
DEAF/HAND OF HEARING	47	25	30	64	10	60	14	30	6	74	3	8	3	13
PHYSICALLY HANDICAPPED	1	1	100	1	100	0	0	0	0	0	0	0	0	0
MULTIHANDICAPPED	91	10	10	88	3	30	4	2	30	37	30	4	40	
TOTAL ABOVE	5165	489	2911	66	244	63	210	14	75	16	942	16	108	23
GIFTED OR TALENTED	62	3	63	100	7	100	0	0	0	0	0	0	0	0
TENNESSEE														
EMR/EMH	18430	974	5572	34	238	25	6554	40	199	20	4204	25	167	12
EMH/EMH	2615	311	3	3	42	20	316	8	26	13	2312	88	132	56
SEVERE EMOTIONALLY DISTURB	229	188	300	42	67	52	104	14	25	18	512	43	44	38
LEARNING DISABLED	51779	1162	24112	26	685	58	5868	18	121	10	1294	6	55	5
SPEECH IMPAIRED	24842	1052	84584	99	1022	97	354	1	13	1	94	0	11	1
DEAF/HANDICAPPED	379	84	152	42	54	54	12	4	8	7	198	53	23	21
BLIND/VISUALLY IMPAIRED	407	87	301	24	163	84	90	23	42	9	16	1	2	4
DEAF/HAND OF HEARING	660	123	231	32	106	51	84	14	24	14	244	32	28	18
PHYSICALLY HANDICAPPED	462	34	99	21	38	70	20	4	10	19	248	25	6	11
MULTIHANDICAPPED	1316	123	122	12	40	30	110	6	18	11	1028	26	66	61
TOTAL ABOVE	29822	4775	55436	70	3667	61	3327	12	458	11	10652	13	646	15
GIFTED OR TALENTED	6236	182	6136	96	388	64	168	3	6	2	51	1	5	1

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM \*

DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

	SCHOOLS OFFERING PROGRAM **	PUPILS IN OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME			
			PUPILS		100% SCLS *		PUPILS		100% SCLS *		PUPILS		100% SCLS *	
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT
TEXAS														
EM/EMH	30021	2212	2874	20	248	11	14822	42	1118	35	8862	30	844	17
TMH/TMH	2189	890	144	3	31	3	848	8	212	24	6307	84	821	82
SERIOUS EMOTIONALLY DISTURB	8043	1218	1645	31	323	28	2000	83	320	28	2214	38	228	18
LEARNING DISABLED	12182	4088	82108	58	338	23	42123	32	352	8	8223	8	194	3
SPEECH IMPAIRED	82420	3643	8812	84	2385	90	2120	3	68	2	784	1	28	1
ORIND HANDICAPPED	2201	680	411	18	207	31	808	22	140	21	1221	84	188	30
BLIND/VISUAL IMPAIRED	842	470	322	28	307	44	234	38	118	28	248	29	84	18
DEAF/HARD OF HEARING	2189	212	228	33	320	48	808	23	182	21	1581	43	72	10
OTHER HEALTH IMPAIRED	2482	882	828	21	123	28	248	32	103	18	1808	82	205	31
MULTIHANDICAPPED	1813	285	248	18	182	28	380	22	65	17	1018	58	121	21
TOTAL(ABOVE)	323482	74821	132322	52	8080	24	81203	28	2482	18	22424	14	2232	18
GIFTED OR TALENTED	2428	22	421	12	12	48	830	33	2	12	1187	42	2	28
UTAH														
EM/EMH	2142	378	1234	12	104	28	884	31	85	20	841	27	17	17
TMH/TMH	842	31	48	6	8	28	28	8	7	22	508	68	11	24
SERIOUS EMOTIONAL/DISTURB	2227	327	8202	28	308	81	884	12	32	2	842	8	22	2
LEARNING DISABLED	12704	403	12081	88	312	78	1218	10	18	8	205	2	8	2
SPEECH IMPAIRED	8045	258	4830	81	212	68	104	3	8	2	21	1	2	1
ORIND HANDICAPPED	184	82	108	37	11	72	21	12	8	2	88	20	8	19
BLIND/VISUAL IMPAIRED	182	81	125	88	41	50	10	7	4	12	2	8	3	4
DEAF/HARD OF HEARING	282	108	184	84	84	82	88	20	10	10	40	14	8	8
OTHER HEALTH IMPAIRED	182	38	112	49	14	41	20	18	1	4	21	12	8	28
MULTIHANDICAPPED	879	20	52	7	10	33	22	2	2	12	248	85	12	43
TOTAL(ABOVE)	21228	1888	24882	28	1021	84	3488	11	128	8	3048	10	123	8
GIFTED OR TALENTED	828	12	888	82	11	82	42	8	0	0	22	2	0	0

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM

DATA TABLE FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

PUPILS IN OFFERING PROGRAM **	SCHOOLS OFFERING PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME					
		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS		PUPILS		100% SCHOOLS			
		NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI	NUMBER	PCI		
VERMONT															
EMR/EMH	999	58		47	8	12	18	182	16	5	8	801	80	44	87
EMR/EMH	750	31		0	0	0	0	12	8	2	10	238	85	18	90
SERIOUS EMOTIONALLY DISTURBED	66	31		39	32	5	39	68	8	18	88	2	2	10	10
LEARNING DISABLED	7943	117		2183	78	39	64	272	8	12	10	268	18	18	18
SPEECH IMPAIRED	1871	134		1477	34	111	80	64	2	5	4	45	3	8	4
ORING HANDICAPPED	39	18		31	54	12	87	0	0	0	0	14	35	3	17
BLIND/VISUALLY IMPAIRED	43	24		18	37	24	88	0	0	0	0	11	39	9	28
DEAF/HARD OF HEARING	66	31		38	58	9	43	0	0	0	0	11	11	9	42
OTHER HEALTH IMPAIRED	82	8		8	18	8	83	0	0	0	0	44	63	1	17
MULTIHANDICAPPED	27	14		26	83	12	88	0	0	0	0	2	1	7	14
TOTAL(ABOVE)	9077	442		2937	86	358	89	542	9	42	10	1687	38	110	25
GIFTED OR TALENTED	68	8		83	97	4	80	0	0	0	0	2	2	1	20
VERMONT															
EMR/EMH	18965	804		547	8	38	4	8568	83	278	30	10568	83	454	50
EMR/EMH	7188	178		34	1	3	2	34	1	8	4	3098	68	189	89
SERIOUS EMOTIONALLY DISTURBED	1829	188		341	32	78	38	249	21	28	12	978	68	73	25
LEARNING DISABLED	87818	938		81941	68	815	68	9713	18	107	11	2843	18	82	7
SPEECH IMPAIRED	73860	1174		23048	57	1130	84	410	7	19	3	477	3	18	1
ORING HANDICAPPED	371	24		58	18	37	60	24	8	8	11	378	78	38	28
BLIND/VISUALLY IMPAIRED	787	181		239	88	184	85	20	7	12	1	19	7	11	8
DEAF/HARD OF HEARING	1059	280		487	88	181	72	122	12	15	4	449	47	24	14
OTHER HEALTH IMPAIRED	87	23		11	18	10	43	22	48	5	22	23	24	9	78
MULTIHANDICAPPED	871	29		29	4	21	37	18	2	4	8	819	94	87	68
TOTAL(ABOVE)	68412	3097		27056	56	2768	87	8298	14	474	12	19488	50	899	77
GIFTED OR TALENTED	8418	231		7438	78	781	85	1482	18	77	9	587	8	9	9

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STATE AND NATIONAL ESTIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1976 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM

DESCRIPTION	PUPILS IN OFFERING PROGRAM	SCHOOLS PROGRAM	LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME*			
			PUPILS 100% SCHOL		PUPILS 100% SCHOL		PUPILS 100% SCHOL		PUPILS 100% SCHOL					
			NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT		
EM/EMH	2422	613	1716	64	86	14	2018	22	122	25	4238	52	185	22
EM/EMH	1422	164	72	4	4	4	20	0	18	12	1290	90	42	61
SEVERE EMOTIONALLY DISTURB	9810	474	124	14	103	22	1222	27	122	21	2528	52	148	21
LEARNING DISABLED	4848	861	5382	86	223	41	2682	22	160	14	1882	12	106	16
SPEECH IMPAIRED	4826	398	4278	84	283	88	201	4	14	4	60	1	10	1
ORING HANDICAPPED	784	186	101	12	24	24	102	12	28	22	682	24	22	44
BLIND/VISUALLY IMPAIRED	124	65	81	44	25	81	34	22	22	32	28	22	10	14
DEAF/HARD OF HEARING	882	118	98	12	68	40	186	24	21	16	506	82	40	24
OTHER HEALTH IMPAIRED	280	112	111	28	43	38	112	24	24	21	186	42	24	28
MULTIHANDICAPPED	1121	182	72	3	13	6	126	11	22	22	581	82	104	64
TOTAL(ABOVE)	30808	3784	12078	35	1034	22	6484	22	862	21	1382	28	769	18
GIFTED OR TALENTED	242	22	638	22	14	24	0	0	0	0	208	28	5	22
WEST VIRGINIA														
EM/EMH	8225	488	1001	12	70	18	2793	42	250	32	2982	46	124	38
EM/EMH	1298	77	12	0	0	0	81	2	10	12	1122	92	85	84
SEVERE EMOTIONALLY DISTURB	448	101	104	22	28	28	128	28	22	21	222	50	22	22
LEARNING DISABLED	6210	488	2424	48	220	48	1184	22	112	25	812	12	10	10
SPEECH IMPAIRED	6070	422	5811	88	462	44	146	2	14	2	111	2	12	2
ORING HANDICAPPED	188	28	25	16	14	22	14	8	11	12	12	14	60	60
BLIND/VISUALLY IMPAIRED	42	64	88	84	28	49	0	0	2	2	10	2	2	2
DEAF/HARD OF HEARING	188	88	64	61	42	18	21	12	5	2	61	22	12	18
OTHER HEALTH IMPAIRED	28	14	24	84	12	80	0	0	0	0	14	2	20	20
MULTIHANDICAPPED	221	21	18	2	2	6	2	1	2	6	212	42	22	21
TOTAL(ABOVE)	22384	2814	10642	42	824	64	6362	24	340	14	6478	28	281	21
GIFTED OR TALENTED	1885	140	1488	24	121	88	222	12	14	11	24	4	2	2

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STATE AND NATIONAL TITIMATES OF SCHOOLS OFFERING AND PUPILS PARTICIPATING IN  
SPECIAL EDUCATION PROGRAMS BY AMOUNT OF TIME SPENT IN PROGRAM  
DATA TAKEN FROM FALL 1978 ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY

		PUPILS AND SCHOOLS BY AMOUNT OF TIME SPENT IN PROGRAM												
		LESS THAN 10 HOURS				MORE THAN 10 HOURS LESS THAN FULL-TIME				FULL-TIME				
		PUPILS		100% SCLS		PUPILS		100% SCLS		PUPILS		100% SCLS		
		NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	NUMBER	PCT	
WISCONSIN														
EMH/IMH	17837	529	368	4	3	0	6365	47	291	31	8404	54	400	41
THH/THH	3397	174	6	0	0	0	199	9	16	10	7191	31	133	73
SERIOUS EMOTIONALLY DISTURB	4050	464	739	13	65	13	1710	47	113	33	1611	40	144	30
LEARNING DISABLED	13156	7736	8768	88	704	82	9405	78	147	11	1331	13	95	7
SPEECH IMPAIRED	12054	1167	17666	87	1137	98	131	1	11	1	733	7	14	4
ORING HANDICAPPED	418	73	104	75	45	67	33	20	33	28	379	63	3	3
BLIND/VISUALLY IMPAIRED	163	76	73	33	28	31	60	33	15	75	50	29	11	9
DEAF/HARD OF HEARING	713	155	181	17	63	63	266	37	21	17	329	46	15	12
OTHER HEALTH IMPAIRED	371	51	173	66	31	73	10	3	0	0	178	41	3	11
MULTIHANDICAPPED	333	174	13	6	10	6	199	73	14	3	613	74	114	68
TOTALS(BOVE)	43764	4374	33335	42	3095	46	17336	36	857	14	14193	39	945	31
GIFTED OR TALENTED	3370	73	2017	80	68	76	482	14	4	6	671	76	13	17
UTAH														
EMH/IMH	681	88	77	11	18	20	787	43	31	33	321	47	13	77
THH/THH	142	17	13	6	4	24	16	11	3	18	115	80	9	33
SERIOUS EMOTIONALLY DISTURB	204	80	63	31	25	63	96	47	10	20	45	73	3	13
LEARNING DISABLED	1957	196	2033	33	104	63	513	17	17	9	413	14	13	3
SPEECH IMPAIRED	1323	131	1193	30	116	50	176	3	3	3	3	0	0	0
ORING HANDICAPPED	38	37	30	73	20	74	8	73	6	20	0	0	0	0
BLIND/VISUALLY IMPAIRED	17	10	3	47	3	20	6	23	0	0	7	10	3	20
DEAF/HARD OF HEARING	53	13	48	97	13	73	7	4	7	12	1	3	1	3
OTHER HEALTH IMPAIRED	33	18	73	91	13	83	7	6	0	0	1	3	0	0
MULTIHANDICAPPED	68	23	28	50	17	48	77	67	7	30	3	6	1	4
TOTALS(BOVE)	3313	373	3530	34	333	58	1077	20	68	13	803	16	67	10
GIFTED OR TALENTED	325	4	480	84	2	73	36	18	1	28	0	0	0	0

\*\* SUM OF PUPILS BY AMOUNT OF TIME MAY NOT EQUAL TOTAL PUPILS IN PROGRAM BECAUSE OF REPORTING ERRORS  
\* SCHOOLS IN WHICH 100% OF PUPILS IN PROGRAM SPEND THE SPECIFIED AMOUNT OF TIME IN SPECIAL EDUCATION PROGRAM



Mr. CHEATHAM. From a civil rights enforcement standpoint, one of the significant patterns is the disproportionate placement of black students in special education, particularly in EMR classes. In effect, the national statistics are consistent with the information OCR has obtained in reviewing the compliance of individual districts applying for ESAA funds.

National data show, for example, that 8.5 percent of all black students in the country were assigned to special education in 1978, compared to 5.6 percent of the white student population. In 1978, 3.7 percent of all black students were enrolled in EMR programs compared to 1.1 percent of all white students.

Although black students comprise 17 percent of total student enrollment, and 23 percent of special education enrollment, they represent 41 percent of all EMR students.

In 1978, 41 percent of all black special education students were enrolled in EMR compared to 18 percent of the white special education students.

To determine whether additional steps should be taken to eliminate any discriminatory practices that may be contributing to this overrepresentation, OCR has contracted with the National Academy of Sciences to conduct a comprehensive study that will lead to a better understanding of the reasons for the overrepresentation.

The data point to other trends that may be significant and may warrant further evaluation. For example:

A greater proportion of black students are enrolled in special education and EMR courses in the southern and border states than in the other regions. Also, 1976-77 data indicate that the proportion of black students enrolled in EMR varied widely among the States.

Comparative 1976 and 1978 data indicate a general increase in mainstreaming of handicapped students. The percentage of all special education students in full-time programs dropped from 27 percent to 22 percent.

Between 1976 and 1978, the proportion of orthopedically handicapped students in full-time special education programs dropped from 73 percent to 57 percent. The data show a 75 percent increase in the proportion of such children enrolled in special education for less than 10 hours per week. However, despite the trend, there may be little educational justification for large percentages of these students spending their school time outside the regular classroom environment.

Of the 2,943,000 students identified as needing special education services, 95,000 students, or 3.2 percent, are reported as not being served.

We hope the statistical report will be useful to the subcommittee as it continues to review the extent to which elementary and secondary education programs are serving handicapped children in accordance with section 504 and the Education for All Handicapped Children Act.

OCR will also provide more detailed data, such as State-by-State enrollment counts, if the subcommittee believes this additional information would be helpful.

We would be pleased to answer any questions that you may have.

Mr. SIMON. You have just answered one question in that I think that State-by-State data would be helpful. I think it zeroes in on problems, and problem areas with more precision than does the data that you have provided here. We appreciate it, if you could provide that.

Mr. CHEATHAM. Yes; we can.

Mr. SIMON. As I listened to your statement, and you have described situations, are you talking about problems primarily in large school districts, or is this a fairly common thing across the board?

Mr. CHEATHAM. The ESAA applications we referred to were from larger districts.

I am going to ask Paul Kretchmar to talk about what our survey shows for the smaller districts.

Have we done the analysis on that yet?

Mr. KRETCHMAR. No; I am afraid that I really cannot comment on that. The patterns that are described for the national, regional, and State level data, are generally evident for large school districts. As the districts get smaller, however, the statistical significance becomes more questionable, because the numbers of students involved are smaller.

My own opinion is that the same kinds of patterns of overrepresentation of minorities in EMR programs, for example, can be found in most school districts independent of the size of the school district, although the relative severity and the relative differences will vary. There are also relationships between size of school districts, concentration of minorities, and other factors.

Mr. SIMON. Your sense is that OCR found that the racially identifiable EMR class did not justify on an educational ground and, hence, the district was declared ineligible for ESAA funds.

What is the procedure on that?

Mr. CHEATHAM. When a school district applies for ESAA funds, there are a number of specific criteria that must be met. If there are racially identifiable special education classes, we will determine whether they are educationally justified under the statute and the regulations.

A finding of ineligibility would be made where EMR students have not been retested or reevaluated several years after their initial placement.

However, an ineligible district is given an opportunity for a waiver by correcting that situation.

Mr. SIMON. When you say that there may be justification, as with major nutritional deficiencies, for example, is there follow through to other agencies, pointing out that these problems cannot be dealt with by the school system?

Mr. CHEATHAM. Mr. Chairman, I cannot say that. Basically educational justification requires use of nondiscriminatory placement and validation that the special needs of students are being met as evidenced by their progress. Racially identifiable special education classes must offer benefits and allow opportunity for later placement in the regular educational program.

The problem is that there is no educational justification in many cases. In the example given, minority students that tested above the EMR range were placed in the classes. The presumption is that the district attorney racially segregated students.

I cannot report any procedure where we would go to the health department as part of the ESAA review.

Mr. SIMON. It just seems to me that where you do find a case which is justifiable on the basis of equality of tests, there may be some other problems that we virtually identified, and there ought to be follow-through in some way by another agency.

I would appreciate if you could send me a letter saying that there is no followthrough, or what the potential followthrough might be. If nothing else, it seems to me that a referral to another agency for followthrough ought to take place.

Mr. Miller?

Mr. MILLER/Thank you, Mr. Chairman.

It is rather interesting, given the testimony this morning, in that one testimony highlights the increase in numbers, and the other testimony seems to break down those numbers into some disturbing patterns.

From a civil rights enforcement standpoint, the use of the phrase "significant patterns of disproportionate placement," that term was used when I first came to Congress. My concern is that, as I look over the different tables, which apparently were done as late as April of this year—Is that correct—I am disturbed, but I may be improperly disturbed.

I want to know from your view as an enforcement officer of this law whether or not a continuation of that statistical evidence leads you to say that? Should we be disturbed about that?

Let me go a little bit further. I am delighted that more and more young people are becoming involved in individualized educational programs, and that more and more school districts are recognizing their duty to handicapped children. But if we are breaking them down along the same lines that we were breaking them down before we had the law, and the problems continue to exist that brought it to our attention, and caused us to bring about a proposed remedy, the question is: Is in fact the proposed remedy working or not working?

Your testimony seems to indicate that we are encountering many of the same old problems. The testimony earlier did not quite see them as significant, and that is my concern. I ask that question in the context of is OCR, in effect, to be an independent agency within the enforcement of these programs?

Mr. CHEATHAM. I think there are a couple of things, Mr. Miller.

In the last couple of years, between the surveys, we have completed investigating many complaints. A lot of complaints had been pending. We are basically current in investigating complaints and proud that over 3,000 people were affected by their resolution. However, those numbers are relatively small compared to the nationwide problem.

That is why we have contracted for the study, to see if additional action may be made. Perhaps this would include recommendations for legislative or regulatory change that would have more of a national impact.

In addition, we are doing compliance reviews, but as I reported, that is a small number. I think that we need to do a better job working with BEH, so that as they do their statewide reviews, their findings and determinations can also follow up on some of the indications that we get in our ESAA reviews.

Mr. MILLER. On that point, you do an ESAA review prior to a grant being let.

Mr. CHEATHAM. Correct.

Mr. MILLER. You determine compliance or noncompliance. How is that information transmitted to BEH; do they ask for all of your ESAA reviews before they look at a State plan, or make a final determination on a State plan?

Mr. CHEATHAM. I was trying to get an answer during the previous testimony as to how systematic we are at providing that information. I would request that I be allowed to provide you with that.

I know that the information is going back and forth, but whether or not it is on a systematic basis, and in a timely fashion, I cannot report to you today.

Mr. MILLER. My concern is that obviously States need to know whether they are in compliance, whether their State plan is going to be accepted. They make some determination in June for the following September, perhaps, and then in July you come in and find that a major school district, given the information that ESAA grants have been made to larger school districts, has substantial compliance problems.

Yet, their audits are much along the same lines, if you will, they said that every 2 years they go into a school district, and they try to extrapolate that out, and they go through debriefing. I am not sure that one is more accurate than the other, but together they may give a better picture than what has been presented in either piece of testimony.

My concern, as a member of this committee, I think the information you presented here today is going to be terribly helpful to us. We are going to be having these hearings, I think, in other cities around the country, and this information is going to be terribly helpful in helping us to determine whether we are doing the same old thing or not.

I would hope that it would be very helpful to BEH when they start looking at State plans, because there are some suggestions here that perhaps these State plans are not working out in fact, due to the civil rights audit, as they do on paper.

Mr. CHEATHAM. There are a couple of things that are going on that should address that. First, I am not exactly sure where we are in terms of keeping each other informed. There is a Departmentwide plan now that has been negotiated between staff offices and the Secretary's office, and all of the agencies to provide for the exchange of such information with any part of the Department.

In other words, whatever OCR does, the other parts of the Department will know in a systematic way. We are just beginning on that. I am aware of a number of meetings between OCR staff and BEH staff, but to tell you specifically that they know that we made a finding in Los Angeles, and that they knew that before they evaluated the State plan, I just don't know.

Mr. MILLER. I would like to follow up on that to both groups in writing, to see how that can be coordinated, because it seems to me to be a terrible waste of information. My belief is that BEH, given what I believe to be the clarity of the law on its face, is in fact an enforcement agency.

I think the law is very clear, and there does not seem to be a great deal of leeway as to whether a State, in fact, is carrying out the mandate of the law. In that light, they ought to be sharing the information that you have on a timely basis.

Let me ask you, it has been brought up a couple of times this morning, about the California case on the IQ, as to whether or not IQ tests can be used or not. On page 9 of your testimony you indicate that, as part of a remedy, it appears that this district was required to remove those youngsters from the program who had an IQ in excess of 75. What is going to happen here, not in this particular case, but in terms of looking at a remedy.

Mr. CHEATHAM. When we were walking over here, I asked Mr. Kretchmar about this point. I knew that we had this case, and that my testimony referred to the use of IQ scores.

Basically, we asked the experts, people in BEH, and other professionals to tell us what a good procedure is. The implications of the California case we have really not assessed, we are really not sure what we need to do. I am not sure if one of the other people accompanying me want to say something more about that.

It is under review by our General Counsel, and we will be taking a position soon. But basically, most of the procedures accepted by the professionals in this area have included as at least one piece of information for assessment, the IQ test scores, and I just think that we are going to have to look at that.

Mr. MILLER. Thank you.

Mr. SIMON. In the area of physical disability, are you finding problems of discrimination?

Mr. CHEATHAM. One of the problems we are finding is that too many children that have physical disabilities are not being mainstreamed, basically, without justification. There has been some shift in that. We don't think that there has been enough shift, and we are looking at that area carefully.

A number of children who happen to be in a wheelchair, for instance, are put into a special education program full time, and not allowed to go to the regular classroom, when there may be no, based on test procedures or anything else, finding that they are performing academically in other than a normal fashion.

Mr. SIMON. On page 12 of your tables, the table in the left-hand corner, the percentage of all blacks in EMR programs, how would those populations by region compare with the same black population per region.

For example, in the South, you talk about 60 percent here, it would strike me that it is possibly higher than the percentage of black population in the Nation.

Mr. KRETCHMAR. The table shows that 47 percent of all the black students who are in elementary and secondary schools are located in the southern region.

Mr. SIMON. The figure on the right-hand side is the total number?

Mr. KRETCHMAR. Forty-seven percent of all black students in the Nation attend school in the South; 60 percent of all the black students identified as being EMR students are in the South. In comparison, 23 percent of all the Nation's white students are in the South, and 22 percent of the white EMR students are in the South.

Mr. SIMON. I follow your table now, I did not understand it.

Mr. KRETCHMAR. I apologize for the confusion.

Mr. SIMON. Unless there are further questions, we thank you very, very much for your testimony.



I think the State-by-State analysis, if you could get that to us, could be significant. We would appreciate that.

Mr. CHEATHAM. We will certainly get that for you, Mr. Chairman.

Mr. SIMON. Thank you.

[Material submitted by Mr. Cheatham follows:]

#### ENROLLMENT IN SPECIAL EDUCATION PROGRAMS

This report presents selected analyses of special education enrollment data collected from public schools. Sources of the data are:

Office for Civil Rights (OCR) Elementary and Secondary School Survey: 1976-77 school year, conducted Winter-Spring, 1977.

OCR Elementary and Secondary School Survey: 1978-79 school year, conducted fall, 1978.

Much of the information reported here has been drawn from the 1976-77 school survey except for national totals, where preliminary, unedited 1978-79 school survey data are available and have also been included. Detailed state data from OCR's fall 1978 school survey will not be available until December 1979.

It is worth noting that the 1976-77 school survey was conducted before HEW's regulation implementing Section 504 of the Rehabilitation Act of 1973 was issued. The Section 504 regulation was issued on May 4, 1977.

The information provided in this document is not designed to be all inclusive, but is intended to illustrate several major points. First, there are significant differences in special education enrollment patterns on the basis of student race, ethnicity. Second, there are wide regional and state-to-state variations in enrollment. Finally, the 1978-79 data show that there are several positive trends in the provision of special education services including an increase in mainstreaming and a more even distribution of minority enrollment among the different program categories.

The report is organized into four sections. Section I presents national enrollment statistics for the 1976-77 and 1978-79 school years. Section II provides regional data for 1976-77. The third Section provides 1976-77 and 1978-79 data on mainstreaming. Data on all handicapped students identified and served are contained in Section IV.

#### I. SUMMARY OF NATIONAL STATISTICS ON SPECIAL EDUCATION ENROLLMENT BY RACE/ETHNICITY FOR 1976-77 AND 1978-79

National data on enrollment in special education programs for the 1976-77 and 1978-79 school years are presented in this Section. Comparative data on black and white enrollment and rates of participation are included.

##### A. Data Sources

The sources of data are the 1976-77 and 1978-79 OCR surveys.

The 1978-79 data are based upon a preliminary analysis performed in April 1979. The 1976-77 statistics are projections based upon a sample of 3700 Local Education Agencies. In 1978-79, 6000 LEA's were surveyed.

Race/Ethnicity data were collected in 1978-79 for the five "non-physical handicapping" conditions only. The five categories are: Educable Mentally Retarded (EMR), Trainable Mentally Retarded (TMR), Seriously Emotionally Disturbed (SED), Specific Learning Disabled (SLD), and Speech Impaired (SI). These categories are often more difficult to diagnose, thus are more prone to subjective assessment, mislabelling and/or discrimination in the referral and placement process. Also, these categories accounted for 96% of all handicapped students in 1976, hence, they covered most of the population of interest.

##### B. Special Education Enrollment: 1976-77-1978-79

Table 1 presents enrollment data for hispanics, blacks, whites and all students for each category of handicapping condition, for all handicapped students, and for all elementary and secondary school students. The table presents data for each school year and shows the percentage change from 1976-77 to 1978-79. Although there is much consistency in the data from 1976-77 to 1978-79, there are a few significant changes.

Total enrollment in the five special education categories rose by 1.0 percent in 1978-79, from 2,556,000 to 2,582,000. White enrollment dropped by 3.4 percent

while black and hispanic enrollment rose by 10 percent and 17 percent respectively.

In 1976-77 blacks comprised 15 percent of all students in the nation, 21 percent of all special education students, and 38 percent of all EMR enrollment. Thus blacks appeared to be significantly overrepresented in EMR programs. In 1978-79 blacks comprised 17 percent of the total enrollment, 33 percent of the special education enrollment, and 41 percent of all EMR students—showing little change from 1976-77.

Both black and hispanic enrollment in programs for the Specific Learning Disabled rose sharply in 1978-79. This may be considered a positive trend since it suggests that school districts are evaluating the education needs of minority students with greater accuracy and sensitivity than in the past. When compared with overall enrollment in special education, blacks were still underrepresented in the SLD category while hispanics were slightly overrepresented.

TABLE 1.—NATIONAL SUMMARY DATA BY RACE—1976 AND 1978

Handicap category: Year, Percent change	Hispanic		Black		White		Total	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
<b>Educable mentally retarded (EMR):</b>								
1976	31,477	5	249,707	38	371,326	56	661,169	100
1978	28,625	5	245,481	41	313,977	53	596,163	100
Percent change	-9.1		-1.7		-15.4		-13.9	
<b>Trainable mentally retarded (TMR):</b>								
1976	6,635	7	26,099	27	61,814	64	96,163	100
1978	6,834	7	27,553	30	57,004	61	93,147	100
Percent change	+3.0		+5.6		-7.8		-3.1	
<b>Seriously emotionally disturbed (SED):</b>								
1976	6,984	6	28,395	23	85,463	70	122,325	100
1978	6,020	5	29,522	24	87,007	70	124,106	100
Percent change	-13.8		+4.0		+1.8		+1.5	
<b>Learning disabled (LD):</b>								
1976	65,011	7	125,726	14	682,095	77	889,778	100
1978	87,804	9	165,124	17	688,159	72	900,514	100
Percent change	+35.1		+31.3		+0.9		+7.9	
<b>Speech impaired (SI):</b>								
1976	49,803	6	116,103	15	605,350	77	768,814	100
1978	58,491	7	134,102	17	598,259	74	808,498	100
Percent change	+17.4		+15.5		-1.2		+5.2	
<b>Total 5 categories:</b>								
1976	159,910	6	546,033	21	1,806,058	71	2,556,249	100
1978	187,774	7	601,782	23	1,744,406	68	2,582,428	100
Percent change	+17.4		+10.2		-3.4		+1.0	
<b>Total enrollment in Nation:</b>								
1976	2,807,452	6	6,773,690	15	33,229,249	76	43,713,809	100
1978	2,884,454	7	7,036,583	17	31,077,568	74	41,933,474	100
Percent change	+2.7		+3.9		-6.5		-4.1	

† Totals include Asian Americans and American Indians.

Source: OCR Survey (OS/CR 102).

For hispanics, blacks and white, enrollment in EMR programs dropped, although the percentage drop in black enrollment was only 1.7 percent as compared with 9.1 percent and 15.4 percent drops for hispanics and white respectively.

In general, black participation varied significantly from that of whites in special education. These differences are presented in the next section.

#### *C. Specific Comparisons Between Blacks and Whites in Special Education: National Statistics for 1976-77 and 1978-79*

**1. Rates of Participation in Special Education.**—The percentage of blacks in special education is significantly higher than that of whites (see Table 2).

In 1976-77, 546,000 or 8.1 percent of all black students were reported as being enrolled in special education as compared with 1,806,000 or 5.4 percent of all whites. In 1978-79, the rates were 8.5 percent and 6.6 percent for blacks and whites respectively. In each year the black rate was approximately 1.5 times greater than the white rate.

In 1976-77, 249,000 or 3.7 percent of all blacks were enrolled in EMR programs as compared with 371,000 or 1.1 percent of all whites. Thus the rate of participation for blacks in EMR was 3.4 times greater than it was for whites. In 1978-79, the rates were 3.5 percent and 1.0 percent for blacks and whites in EMR; the rate for blacks was 3.5 times greater.

In both 1976-77 and 1978-79, the black rates of participation were around twice and 1.5 times that of whites for TMR and SED programs respectively. These differences were large, but significantly less than that shown for EMR. Differences for programs for the Specific Learning Disabled and Speech Impaired were small.

TABLE 2.—RELATIVE RATES OF BLACK AND WHITE PARTICIPATION IN SPECIAL EDUCATION 1976-77 AND 1978-79  
SCHOOL YEARS  
(In Percent)

Categories, Race	1976-77	1978-79 (preliminary data)
All special education		
Black	18.1	8.5
White	5.4	5.6
Difference	50.0	51.7
Edvocable mentally retarded:		
Black	3.7	3.5
White	1.1	1.0
Difference	236.4	250.0
Trainable mentally retarded:		
Black	38	39
White	19	18
Difference	100.0	116.7
Seriously emotionally disturbed:		
Black	42	42
White	26	26
Difference	61.5	50.0
Serious learning disability:		
Black	1.9	2.3
White	2.1	2.2
Difference	-9.5	4.5
Speech Impaired:		
Black	1.7	1.9
White	1.8	1.9
Difference	-5.6	0

<sup>1</sup> 5 programs.

<sup>2</sup> Expressed as a percentage of total enrollment of the race-ethnic group in elementary and secondary schools.

<sup>3</sup> Computed as Percent black minus percent white times 100, divide by percent white.

2. *Distribution of Special Education Students Within Specific Categories.*—Another analysis examined the way in which special education students were distributed among the five categories of handicapping conditions. Table 3 shows that there were significant differences between blacks and whites.

In 1976-77, 46 percent of all black special education students were in EMR programs as compared with 21 percent of all white special education students.

In 1976-77, 23 percent of all black special education students were in programs for the Specific Learning Disabled as compared with 38 percent of all whites.

In 1978-79, there were some improvements as the percentage of blacks in EMR dropped to 41 percent (versus 18 percent for whites), and the percentage of blacks in SLD programs rose to 27 percent (as compared with 39 percent for white students).

Only 22 percent of black special education students were in programs for the Speech Impaired as compared with 34 percent of all white students. This represents no significant change from 1976-77.

#### D. State-to-State Variations in Students in Special Education

The 1976-77 OCR data showed wide variations between states in the rate of student participation in special education programs. The following facts illustrate this point:

In the nation, 6.2 percent of the nation's 24 million elementary and secondary school students were enrolled in special education programs.

Among states this figure varied greatly, ranging from a low of 2.8 percent to a high of 10.0 percent.

TABLE 3.—DISTRIBUTION OF SPECIAL EDUCATION STUDENTS BY CATEGORIES OF PROGRAMS  
(Percentage of special education students in each category)

Category	1976-77		1978-79	
	Black	White	Black	White
Educable mentally retarded.....	45.7	20.6	40.8	18.0
Trainable mentally retarded.....	4.8	3.4	4.6	3.3
Seriously emotionally disturbed.....	5.2	4.7	4.9	5.0
Serious learning disability.....	23.0	37.8	21.4	39.4
Speech impaired.....	21.2	33.5	22.3	34.3
Total.....	99.9	100.0	100.0	100.0

Interpret as "45.7 percent of all black students who were in special education in 1976-77 were in an educable mentally retarded program."

The five states with the highest rates of participation had 9.2 percent of their elementary and secondary school students reported in special education. These states accounted for 9.9 percent of the nation's special education students while accounting for only 6.6 percent of all students.

The five states with the lowest rates of participation reported 3.7 percent of their students in special education. These states accounted for only 7.8 percent of all special education students while they contained 13.1 percent of all students.

## II. SUMMARY OF REGIONAL STATISTICS ON SPECIAL EDUCATION ENROLLMENT BY RACE/ETHNICITY: 1976-77

### A. General Description of Analysis

The 1976-77 OCR Survey Data were analyzed on a regional basis to identify differences in special education enrollment patterns throughout the nation. For purposes of this analysis the nation was divided into five regions, as shown in Table 4. Since Alaska and Hawaii were excluded, national totals will vary slightly from those presented in previous tables. A second source of differences from statistics presented in Section I is that in this Section the total enrollment in special education includes all categories of handicapping conditions. Data are provided for black, white and all students, and for EMR, SLD, and all special education programs.

### B. Special Education Enrollments by Region: 1976-77

Data on total enrollment in elementary and secondary schools, enrollment in EMR and SLD programs, and total special education enrollment are shown in Table 5. Table 6 shows the percentage distributions of enrollment EMR, SLD, and total special education among the five regions. The basic patterns identified in the national analysis of Section I are generally found in each region, however, there are some significant differences.

TABLE 4.—STATE-BY-STATE ASSIGNMENT TO REGIONS

Northeast	Border	South	Midwest	West	Exclude
Connecticut	Delaware	Alabama	Illinois	Arizona	Alaska
Maine	District of Columbia	Arkansas	Indiana	California	Hawaii
Massachusetts	Kentucky	Georgia	Iowa	Colorado	
New Hampshire	Maryland	Florida	Kansas	Idaho	
New Jersey	Missouri	Louisiana	Michigan	Montana	
New York	Oklahoma	Mississippi	Minnesota	Nevada	
Pennsylvania	West Virginia	North Carolina	Nebraska	New Mexico	
Rhode Island		South Carolina	North Dakota	Oregon	
Vermont		Tennessee	Ohio	Utah	
		Texas	South Dakota	Washington	
		Virginia	Wisconsin	Wyoming	

The Northeast, with 9,180,000 students, accounted for 21 percent of the nation's total enrollment, but only 14 percent (388,000) of all students in special education.

Conversely, the Southern and Border states contained 88 percent of all students and 43 percent of all special education.

TABLE 5.—SPECIAL EDUCATION ENROLLMENT DATA BY REGION, 1976-77 SCHOOL YEAR

	Black		White		Total number
	Number	Percent of total	Number	Percent of total	
Nation:					
Enrollment.....	6,770,000	15.7	33,100,000	76.6	43,200,000
Educable mentally retarded.....	249,000	37.8	370,000	56.2	658,000
Learning disabled.....	125,000	14.2	678,000	77.0	800,000
Total in special education.....	575,000	21.5	1,090,000	70.5	2,680,000
Northeast:					
Enrollment.....	1,200,000	13.1	7,360,000	80.2	9,180,000
Educable mentally retarded.....	25,000	27.2	60,000	65.2	92,000
Learning disabled.....	13,000	10.0	113,000	86.9	130,000
Total in special education.....	68,000	17.5	296,000	76.3	388,000
Border:					
Enrollment.....	628,000	17.0	2,960,000	80.0	3,700,000
Educable mentally retarded.....	23,000	31.1	49,000	66.2	74,000
Learning disabled.....	24,000	26.4	64,000	70.3	91,000
Total in special education.....	68,000	23.8	210,000	73.4	286,000
South:					
Enrollment.....	3,160,000	26.8	7,710,000	65.3	11,800,000
Educable mentally retarded.....	149,000	61.6	83,000	34.3	242,000
Learning disabled.....	59,000	22.6	170,000	65.1	261,000
Total in special education.....	312,000	36.5	473,000	55.4	854,000
Midwest:					
Enrollment.....	1,250,000	11.4	9,410,000	85.5	11,000,000
Educable mentally retarded.....	44,000	23.5	138,000	73.8	187,000
Learning disabled.....	17,000	8.5	176,000	88.4	199,000
Total in special education.....	92,000	13.5	567,000	83.3	681,000
West:					
Enrollment.....	528,000	7.0	5,700,000	75.4	7,560,000
Educable mentally retarded.....	8,000	12.7	40,000	63.5	63,000
Learning disabled.....	12,000	6.0	155,000	77.9	199,000
Total in special education.....	35,000	7.4	348,000	73.7	472,000

\* Excludes Hawaii and Alaska.

TABLE 6.—REGIONAL DISTRIBUTION OF SPECIAL EDUCATION STUDENTS, 1976-77 SCHOOL YEAR

	Percent of all students in school	Percent of all special education students	Percent of all educable mentally retarded students	Percent of all students in serious learning disability programs
Nation.....	100	100	100	100
Northeast.....	21	14	14	15
Border.....	9	11	11	10
South.....	27	32	37	30
Midwest.....	25	25	28	23
West.....	18	18	10	23

	Percent of all black students in school	Percent of all blacks in special education	Percent of all blacks in educable mentally retarded programs	Percent of all blacks in serious learning disability programs
Nation.....	100	100	100	100
Northeast.....	18	12	10	10
Border.....	9	12	9	19
South.....	47	54	60	47
Midwest.....	18	16	18	14
West.....	8	6	3	10

	Percent of all white students in school	Percent of all whites in special education	Percent of all whites in educable mentally retarded programs	Percent of all whites in serious learning disability programs
Nation.....	100	100	100	100
Northeast.....	22	16	16	17
Border.....	9	11	13	9
South.....	23	25	22	25
Midwest.....	28	30	37	26
West.....	17	18	11	23

The South, with 3,160,000 black students, accounted for 47 percent of the nation's total black enrollment. The South contained 54 percent (812,000) of all black in special education, and 60 percent (140,000) of all blacks in EMR.

The West contained 18 percent of all students but had only 10 percent of all EMR participants. Conversely, 23 percent of all students in SLD programs resided in the Western states.



In the South, 29.8 percent of all students were black, 36.5 percent of all special education students were blacks, and blacks comprise 61.6 percent of all EMR students.

In general, the pattern of substantial overrepresentation of blacks in EMR programs and underrepresentation of blacks in SLD programs was observed in each region. Only in the Border states did blacks appear to be overrepresented in SLD programs.

*C. Comparisons Between Blacks and Whites in Special Education by Region: 1976-77*

*1. Rates of Participation in Special Education.*—The rates of black and white participation in special education varied by region. Table 7a shows the regional percentages of all elementary and secondary school students enrolled in EMR, SLD, and all special education.

In the nation, 6.2 percent of all elementary and secondary school students were enrolled in special education. This varied by region, from a low of 4.2 percent in the Northeast to a high of 7.7 percent in the Border States.

In the Southern and Border States respectively, 9.9 percent and 10.8 percent of all blacks in school were enrolled in special education as compared with 6.1 percent and 7.1 percent of all whites. In contrast, the Northeast and West showed only 5.7 percent and 7.1 percent of their black students in special education.

In the South 4.7 percent of all blacks in school were enrolled in EMR programs as compared with 1.1 percent of all whites, the black rate being 4.3 times greater. The rates for blacks in the Northeast and West were 2.1 percent and 1.5 percent.

Total rates of participation in EMR programs for all students varied from a high of 2.1 percent in the South to 0.8 percent in the West. Thus the South showed a rate which was 2.6 times higher than the West.

With the exception of the Border States, higher percentages of whites were enrolled in programs for the Learning Disabled. In the South, 2.2 percent of all white students were in these programs as compared with 1.9 percent of the blacks.

*2. Distribution of Special Education Students Within Specific Categories.*—The percentage of all special education students in EMR and SLD programs for each region are shown in Table 7b.

In the South and Midwest 47.8 percent of all black special education students are in EMR programs as compared with respective rates of 18.9 percent and 18.4 percent in SLD programs for these regions.

TABLE 7.—SPECIAL EDUCATION PARTICIPATION RATES: BY REGION, 1976-77 SCHOOL YEAR

	Nation <sup>1</sup>	Northeast	Border	South	Midwest	West
<b>(a) Percentage of all students in programs:</b>						
Percent of students in special education:						
Black.....	8.5	5.7	10.8	9.9	7.4	6.6
White.....	5.9	4.0	7.1	6.1	6.0	6.1
Total.....	6.2	4.2	7.7	7.2	6.2	6.2
Percent of students in educable mentally retarded programs:						
Black.....	3.7	2.1	3.7	4.7	3.5	1.5
White.....	1.1	.8	1.7	1.1	1.5	.7
Total.....	1.5	1.0	2.0	2.1	1.7	.8
Percent of students in programs for the learning disabled:						
Black.....	1.8	1.1	3.8	1.9	1.4	2.3
White.....	2.0	1.5	2.2	2.2	1.9	2.7
Total.....	2.0	1.4	2.5	2.2	1.8	2.6
<b>(b) Percentage of special education students in programs:</b>						
Percent of all special education students in educable mentally retarded programs:						
Black.....	43.3	36.6	33.8	47.8	47.8	22.9
White.....	19.6	20.3	23.3	17.5	24.3	11.5
Total.....	24.6	23.7	25.9	28.3	27.5	13.3
Percent of all special education students in programs for the learning disabled:						
Black.....	21.8	19.1	35.3	18.9	18.4	34.3
White.....	39.9	38.2	30.5	35.9	31.0	44.5
Total.....	32.8	33.5	31.8	30.1	29.2	42.2

<sup>1</sup> Excludes Hawaii and Alaska.

In the South 17.5 percent of all white special education students are in EMR programs vs. 35.9 percent in SLD.

In the Border and Western states this relationship is reversed with more blacks in SLD programs than in programs for EMR students. However, in all regions the percentage of black special education students in EMR is much higher than the percentage of whites.

#### D. State-to-State Variations in the Enrollment of Black in EMR

A review of the state level data for 1976-77 revealed significant variations among the states.

Three states reported that 6.6 percent of their black elementary and secondary school students were in EMR programs while four states reported that 1.7 percent or less of the black student population was in EMR.

Eleven states reported that more than 50 percent of all black special education students were in EMR. Two southern states had more than 70 percent of the black special education students in EMR.

### III. SUMMARY OF NATIONAL STATISTICS ON MAINSTREAMING

#### A. Data Collected

In both the 1976-77 and 1978-79 surveys, OER collected data on time spent in special education programs. For each category of handicapping condition, enrollment data were collected for: (1) all students in special education classes for less than ten hours per week (mainstreamed); (2) all students in special education classes for more than ten hours per week, but less than full time; (3) all students in special education full time (isolated).

#### B. Trends in Mainstreaming

Table 8 presents the enrollment in each category of handicapping condition for the 1976-77 and 1978-79 school years. The percentage of students in each time classification was computed. For 1978-79, estimates of the percentage distributions were developed from preliminary data.

A comparison of 1976-77 and 1978-79 data shows a general increase in the degree to which handicapped children are being mainstreamed. That is, a smaller percentage of handicapped students were reported as being in special education classes full time in 1978-79.

The percentage of handicapped students in full time special education was lower in 1978-79 than 1976-77 in seven of ten categories of handicapping conditions. The overall percentage in full time programs dropped from 27 percent to 22 percent.

The proportion of EMR students in full time special education dropped from 55 percent to 43 percent. This represents a 22 percent reduction in the proportion of full time students.

The proportion of Orthopedically Impaired students in full time programs dropped from 73 percent to 57 percent. This was accompanied by a 75 percent increase

TABLE 8.—DISTRIBUTION OF STUDENTS IN SPECIAL EDUCATION BY TIME SPENT IN PROGRAMS 1976-77 AND 1978-79 SCHOOL YEARS

Category of handicapping condition	Percent of students in special education						
	1976 enrollment in special education	Less than 10 hr per week		More than 10 hr but less than full time		Full time	
		1976-77	1978-79	1976-77	1978-79	1976-77	1978-79
Educationally mentally retarded.....	661,170	13	15	32	41	55	43
Trainable mentally retarded.....	96,163	1	3	5	8	93	89
Seriously emotionally disturbed.....	122,328	31	30	20	22	49	48
Learning disabled.....	289,778	63	60	21	27	15	13
Speech impaired.....	786,815	95	96	3	2	2	2
Orthopedically impaired.....	30,462	16	28	9	14	73	57
Blind/visually impaired.....	12,755	52	62	20	18	27	20
Deaf/hard of hearing.....	35,857	30	36	17	22	52	42
Other health impaired.....	29,509	51	54	15	7	32	39
Mult-handicapped.....	31,569	14	10	17	16	68	74
Total.....	2,696,404	55	57	17	21	27	22

<sup>1</sup> Categories used for 1976-77 OS/CR 101-102 Survey.

<sup>2</sup> 1978-79 estimates based on preliminary data.

in the proportion of such children in special education classrooms for less than 10 hours per week. This is significant because there appears to be little educational justification for large percentages of such students spending all of their time outside the regular classroom.

The proportion of Blind/Visually Impaired and Deaf/Hard of Hearing students in full time special education dropped from 27 percent to 20 percent, and 32 percent to 42 percent, respectively.

The proportion of students categorized as Other Health Impaired who were in special education full time increased from 32 percent to 39 percent. Similarly, for Multihandicapped students this figure increased from 68 percent to 74 percent. In both categories there appears to be a significant increase in enrollment in 1978-79, based on a preliminary estimate. Thus, the higher proportion in full time special education may reflect the fact that such students are no longer being placed in state operated or private facilities for the handicapped. This possible trend in deinstitutionalization will result in more students receiving their education in the "least restrictive environment."

#### *C. Regional and State Distribution*

The 1976-77 percentages of EMR and SLD students in full time special education was computed for each geographic region as shown in Table 3.

The percentage of EMR students who spent full time in special education classes ranged from a low of 44 percent in the South to a high of 69 percent in the Northeast.

The percentage of students in SLD programs full time varied from 9 percent in the South to 23 percent in the Northeast.

At the state level, there was significant variation in the proportion of EMR students who spent full time in the special education classroom. The minimum was 5 percent and the maximum is 82 percent. Ten states show EMR full time rates of less than 30 percent, and thirteen states had more than 60 percent of their students in full time programs.

For SLD students in full time programs, state data showed less variation. Twenty-six states showed rates of 10 percent or less, forty had less than 20 percent of their students in full time programs; and eleven had rates greater than 20 percent, with a maximum of 38 percent reported.

TABLE 3.—PERCENTAGE OF EDUCABLE MENTALLY RETARDED AND SERIOUS LEARNING DISABILITY STUDENTS IN FULL-TIME SPECIAL EDUCATION: 1976-77 DATA BY REGION

Region	Percent of students in full-time special education	
	Educable mentally retarded	Serious learning disability
Nation.....	55	15
Northeast.....	69	23
Border.....	52	13
South.....	44	9
Midwest.....	63	15
West.....	56	13

#### *D. Concentration of Handicapped Students in Schools*

The 1978-79 data were analyzed to determine the distribution of handicapped students between the country's elementary and secondary schools. In general, handicapped students appear to be well integrated into the nation's schools in terms of location of services offered.

Of the 2.6 million special education students reported, 84 percent were being served in schools where the proportion of handicapped students was less than 30 percent of total enrollment. Approximately 63,000 schools were in this category.

Only 3.8 percent (101,000) of special education students attended schools which served exclusively handicapped students. There were approximately 1200 such schools identified.

Only 15 percent of the estimated 76,000 schools in the nation did not provide any special education.

## IV. IDENTIFICATION OF HANDICAPPED STUDENTS AND NUMBER UNSERVED: 1978-79

## A. Data Collected

The 1978-79 survey asked each participating Local Education Agency to provide a count of all resident school age children evaluated as needing special education services. It also asked for the number of children who were being served in any special education program, either by the reporting LEA, another LEA in a cooperative arrangement, a private or public institution, or in a homebound setting.

It should be noted that similar data were collected in 1976-77, however, the definitions of handicapping conditions were not consistent with the current BEH definitions. For this reason the 1976-77 data are not presented in this section. Also, as of this writing, a state and regional estimates of total enrollment for 1978-79 were not available. Estimates of the percentage of students needing special education services were based on 1976-77 enrollment data.

## B. Regional Estimates of Students Identified as Needing Special Education

Table 10 contains the results of an analysis of preliminary 1978-79 data. Counts of students in special education are larger in this table than those shown in previous sections since students served outside of the public school systems are included. The table shows the number of students in need of special education and the percentage of all elementary and secondary school students so identified.

In the nation 2,943,000 students (6.8 percent of the total elementary and secondary school enrollment) were identified as needing special education.

The percentage of students identified ranged from a low of 5.7 percent in the Northeast, to a high 8.7 percent in the Border States. Thus students were identified in the Border States at a rate which was 1.5 times higher than that shown in the Northeast.

## C. Number of Students Unserved

Table 10 shows that 2,848,000 received special education services in 1978-79 but that a significant number were unserved.

A total of 95,000 students who were evaluated as needing special education were not enrolled in a program. This was 3.2 percent of all students identified as needing these services.

The South, with 4.1 percent unserved, showed the highest rate and number (36,000) not receiving appropriate services.

The West had the lowest proportion, 2.5 percent, unserved; and the Northeast showed only 2.7 percent.

Since OCR survey data was collected during October of the school year, it is likely that some of the students counted as unserved were ultimately placed in programs.

TABLE 10.—HANDICAPPED STUDENTS IDENTIFIED AND UNSERVED BY REGION, 1978-79 SCHOOL YEAR

Region	Total enrollment in 1976 <sup>1</sup>	Total identified as needing special education: 1978:	Percent of all students identified as needing special education	Number served by special education <sup>2</sup>	Needing but not receiving special education	
					Number	Percent
Nation.....	43,200,000	2,943,000	6.8	2,848,000	95,000	3.2
Northeast.....	9,182,000	520,000	5.7	506,000	14,000	2.7
Border.....	3,700,000	323,000	8.7	311,000	12,000	3.7
South.....	11,800,000	887,000	7.5	851,000	36,000	4.1
Midwest.....	11,000,000	729,000	6.6	708,000	21,000	2.9
West.....	7,960,000	484,000	6.1	472,000	12,000	2.5

<sup>1</sup> From 1976-77 OCR survey.

<sup>2</sup> Preliminary data from 1978-79 OCR survey.

<sup>3</sup> Includes all children receiving special education in any school setting, or at home. This does not include students for whom full payment of costs is not provided by public funds.

Mr. Simon. Before we call on our final witness, Professor Hirsch, and I hate to do this to you, sir, we have another rollicall. I think that

we had better go and answer that rollcall right now, before we continue with our hearing.

The subcommittee will stand in recess.

[Recess.]

Mr. SIMON. The subcommittee will resume its hearings. Our next witness is Prof. Jay G. Hirsch, professor of psychiatry at the University of Illinois, who is here on behalf of the American Psychiatric Association and the American Academy of Child Psychiatry.

We welcome you here, Professor Hirsch. I am happy to note that you are from the State of Illinois, and that makes it a double pleasure to welcome you here.

[The prepared statement of Dr. Hirsch follows:]

PREPARED STATEMENT OF JAY HIRSCH, M.D., PROFESSOR OF PSYCHIATRY, UNIVERSITY OF ILLINOIS, ON BEHALF OF THE AMERICAN PSYCHIATRIC ASSOCIATION AND THE AMERICAN ACADEMY OF CHILD PSYCHIATRY

Mr. Chairman and members of the Subcommittee, my name is Dr. Jay Hirsch. I am a child psychiatrist from Chicago, Illinois, a Professor of Psychiatry at the Abraham Lincoln School of Medicine, University of Illinois, and formerly Director of Professional Education at the Institute for Juvenile Research.

For many years a major area of my professional commitment has been in working with schools, special education districts and agencies serving children and families. I am here today to present the joint testimony of the American Psychiatric Association, a medical specialty society representing more than 25,000 psychiatrists nationwide, and the American Academy of Child Psychiatry, a nationwide organization of approximately 3,100 doctors of medicine who subspecialize in the practice of child psychiatry.

We consider Public Law 94-142 landmark legislation, of extreme importance to the community of handicapped children and their families—a subgroup of our population which often has either forgotten or discriminated against, both officially and unofficially. In this law, we have, for the first time, a federal mandate to provide services to children, regardless of handicap—and establishing such services as a right, to be guaranteed by the law, with appropriate safeguards as to due process. This is truly a breakthrough of far-reaching social significance.

These remarks are made from the perspective of our active participation, together with colleagues in many other disciplines in providing services to handicapped children and their families. Although our interests might initially be conceived of as being particularly focused on the needs of the emotionally disturbed (for which we have clear responsibility) and the mentally retarded and learning disabled (with whom most practitioners in our field also have direct contact), we are also concerned about the social and psychological ramifications of the other handicapping conditions involving speech, general health impairment, orthopedic handicaps, multi-handicapped, and disabilities involving the critical senses of vision and hearing. As medical practitioners working in the community, we have contact with many such afflicted children, and provide a variety of services to them and their families. Many of our number also work directly with school staffs, especially in special education, being involved with initial diagnostic assessment, consultation to school personnel, in-service training, staff development, and a variety of other functions. Consequently, we urge that this statement be viewed as that coming from a group of professional colleagues, who share the commitment to the care of handicapped children and their families with those in education and special education, our medical colleagues in pediatrics, neurology, orthopedics, ophthalmology, and otolaryngology, and the great variety of other non-medical disciplines, whether mentioned or not in 94-142.

Public Law 94-142 is one of the most important pieces of legislation ever enacted in the field of children's services. It is the moral imperative of an advocacy law and seeks to ensure both forcefully and undeniably the provision of services for handicapped children. We are particularly pleased with the importance placed on early diagnosis and early intervention, both important tenets of good psychiatric medical and other mental health practice.



However, despite its honorable intent, many problems have arisen with implementation of the law at state and local levels. These problems have been accompanied by high levels of confusion, frustration and hostility among otherwise well-meaning and dedicated people. Unintended as they may have been, the conflicts and antagonisms which have been uncovered must be faced before solutions can be found. Allow us to list some of the most important of these problems. Realizing that you have heard about some of these from other groups, we will be brief and not all-inclusive.

Misinterpretations of the law by educators, special educators, school boards, parents, and other service providers have led to grossly exaggerated expectations from 94-142. Consequently, the law has appeared to promise a great deal more than it can possibly deliver. Many school people worry about whether the alleged "open-ended" nature of the commitment to the provision of services to the handicapped will result in the bankruptcy of the entire educational system at both state and local levels. It would be accurate to say that 94-142 has at least strained the financial and emotional resources of schools to new limits. In addition, there has been much concern about the number of forms to be filled out and the bureaucratic tangle necessitated by compliance to federal, state and local guidelines, which often change, and sometimes contradict, one another. Teachers complain that much time which used to be spent with children is now spent doing paper work.

Implementation has varied widely from one state to another, and one locality to another. Some school districts have violated the spirit of the law by purposefully under-identifying or mislabelling the child with a handicap, so they will not be forced to serve them with programs that they do not now have.

This is done presumably so that they will not be forced to serve them with programs that they do not now have. Often, school personnel are instructed to make no recommendations to parents for outside professional help (even when it is desperately needed) for fear that schools will have to pay for those services.

Anecdotally, one hears that affluent families and communities have taken advantage of the law to obtain increased services, while poverty families and poorer communities have benefitted relatively less from 94-142. On the other hand, states and localities with a heavy earlier commitment to special education, prior to 94-142, expressed resentment about the rigidity of the federal statute, and the administrative difficulties it has presented.

For reasons that are very complex, this well-meaning law has often been a paradox in its implementation. A bill so clearly espousing the goals of child advocacy has brought with it so much anxiety, confusion, defensiveness, and suspicion that it virtually promotes an adversarial relationship between the very people it wants to bring together in cooperative interaction for the ultimate benefit of the child. We wonder if something may be lost when "voluntary" efforts give way to mandated ones—resulting ultimately in more emphasis on quantity rather than quality, on appearances rather than realities, on fulfilling bureaucratic red tape rather than providing direct service to children.

Problems of handicapped children do not lend themselves to easy solutions or remedies. Even the simplest handicap can be of complex etiology, involving biological, social and psychological interactions which defy easy assessment and diagnosis, and which call for complicated programs of interventions requiring many disparate resources. Children not only demonstrate problems with academic achievement and behavior in school, but they sometimes come to school in the midst of chaotic family experiences, with difficulties arising out of poverty, unemployment, drug use and abuse, and other factors in their neighborhood and community, which impinge upon their lives. An IEP, which focuses exclusively on the three R's and which does not take into account complex etiology, and difficult environmental circumstances, will frequently be too simplistic and not relevant.

Planning for the whole child and the environment around him, although difficult, is what must be accomplished. It is ludicrous for anyone to think that special educators should take on these burdens alone. Input and commitment from diverse professional and community resources is essential.

The challenge of 94-142 is for all of the child-serving professions to consider this an opportunity to redesign the service delivery system for children with appropriate concern for the sharing of responsibility, authority, and funding, and to make integration, collaboration, and cooperation a reality.

It has been apparent to many of us that often on the state and local levels, that the various child serving agencies (e.g., mental health departments, depart-

ments of education, departments of children and family services, welfare departments, and departments of correction, to name just a few) are at war with each other, in a frantic effort to limit their own liability and responsibility for handicapped children. In these days of high tax burdens and fiscal accountability, it is understandable, although lamentable, that state agencies might place higher priority on balancing their books than on the provisions of an integrated network of human services for children.

This phenomenon is most evident when one considers the severely emotionally disturbed adolescent, who is doing poorly in school (if he is there at all), is not fitting in the community, and who may be a simultaneous client of all five of the above-named agencies. Such children have heretofore taxed the limits of all service providers, and take up an inordinate amount of resources for their numbers. Clearly, with this group, the school cannot do the job alone. For these children, as well as all the others, we must find some mechanisms at the state and local level to bring about viable interagency agreements, which will realistically define the limits of responsibility, authority, and funding inputs of each. Emphasis here must be placed on cooperation and serving.

As you know, there are eleven categories of handicapped under the law. Each is defined in the regulations under Section 121a.5. The severely emotionally disturbed category takes up at least twice as much space as any other category, except for that of specific learning disabilities, which is about 50 percent longer than the others. This phenomenon undoubtedly reflects the difficulties of defining these two categories.

With reference to severe emotional disturbance, there are major problems in assessing its presence or absence, and even more difficulty separating educational services from therapeutic services. School personnel and parents want to know when one ends and the other begins. It seems certain that input from medical specialties including psychiatry, will be needed at the diagnostic assessment and planning levels. Indeed, many of our colleagues currently work on diagnostic teams within schools.

The intention of the law with respect to psychiatric treatment within the context of "related services", as the term is defined in P.L. 94-142, is unclear. Perhaps, this is because although the subject of related services was considered in the Senate bill (S. 8), the Senate Committee Report (94-168), the House bill (H.R. 7217), the House Report (94-332), by the House-Senate Conference, and in the Joint Explanatory Statement of the Conference Committee, it was to quote one of the staff architects of the legislation, Dr. Martin LaVor, in an article submitted for publication—"not the focus of extensive discussions" After citing every House and Senate reference to the term "related services", which we have reviewed carefully, Dr. LaVor, concludes:

When S. 6 and H.R. 7217 were considered by the full House and the full Senate, there was virtually no discussion, reference or explanation that would further clarify legislative intent for the term "related services".

We concur. Thus it is not clear to us whether the law intended for psychiatric treatment to be mandated and paid for out of school funds. However, given the paucity of special education dollars, and the overwhelming demands on schools, we understand why some feel that medical and mental health treatment should be paid for through other noneducational sources.

Concerns about obtaining alternative funding sources are among the most prominent of the unsettled issues of 94-142. Indeed, it is our understanding that, in some localities, schools have applied to become medicaid vendors in an effort to have medical dollars flow toward educational funding.

Whether the term "free," (i.e., at no cost to the family) should apply to educational efforts, not to the medical or mental health treatment component is a difficult issue. For some aspects of a total IEP, which go beyond traditional boundaries of education, it would appear that families, state and local agencies, medical insurance companies, and other third party payers will need to, and should be reasonably expected to, contribute funds.

We also have some concern that some excellent private facilities which have been operating over a long time could, with 94-142, be squeezed out of operation because of inadequate or withheld funding, and be replaced by less adequate facilities to be operated in the public domain. Particularly with regard to operating residential facilities for the severely mentally retarded and the severely

emotionally disturbed, it takes dedicated staff, with considerable experience and expertise. Staff burn-out is an ever-present and serious problem. It is our opinion that in some areas because of 04-142 there is actually a net loss in the availability of the above-mentioned services because many public schools do not have the staff or the experience to maintain such difficult operations over time.

There are serious problems with confidentiality under the law. Because of the openness of the record, errors occur in both ends of the confidentiality continuum, i.e., either too much or too little information appears in the record. Most often, in the effort to avoid the communication of any sensitive, private information, and the problems which can arise therefrom, important data on the family and the child is not included. The open record thus can become a useless document for educational planning.

Professionals working for the school are sometimes under pressure to come up with educational plans which are already available--but which might be ideally suited to the needs of the child. Obviously, no school system has an infinite array of programs, classrooms, and faculty. On the other hand, outside professionals are encouraged to take an advocacy position on behalf of the child and/or his or her family, which sometimes result in conflict between the school, on the one hand, and the outside professional and the family, on the other. This will often become manifest in implementation of the due process portion of the law. We quite agree with those who like to see less formal resolution of the problems than through hearings or court proceedings. Amicable resolution of conflict is superior to the rancor and anxiety of formal adversarial proceedings.

There is a need for the individualized education program to be concerned not only with special education programming but general and special health problems as well as mental health problems which interfere with learning or preclude it. Also family and environmental problems should be part of the individual education plan and there should be some way of planning for ongoing work with families as it impacts both upon the children's mental health and on his/her learning.

The state plans should include several items not previously mandated, (a) that there be members of both Health and Mental Health professionals on the state and local advisory committees so that they might have their input into the state and local plans and (b) that each state plan specify that there be written inter-agency agreements between the state Departments of Education, Health and Mental Health in terms of the cooperative responsibility for the health and mental health care of children, and that this requirement be conditional to the receipt of education funds. This is particularly important since at the federal level there are now separate departments of education and health and human services. This change would prevent various school districts refusing to consider the therapeutic needs of their children in special education for fear that they may be stuck with the treatment programs which they cannot afford or which will reduce their capacity for providing special education programs to children in their charge. The concept of shared responsibility for these children must be emphasized over and over again.

There are ongoing needs to train professionals in the medical and mental health disciplines for service in cooperation with school personnel under 04-142. Our organizations have already talked with BEH in exploring a variety of such input for our own membership as well as for medical students and resident physicians in our field and others. These efforts will continue. Conversely, there is a need to train school personnel to working cooperatively with medical and mental health team members.

Having presented major concerns with the content and specifics of this bill, we wish to reiterate that it does provide a major and significant framework and a bold articulation of public policy and priorities. The American Psychiatric Association and the American Academy of Child Psychiatry applaud its intent and welcome the opportunity of working with you and the staff and submitting legislative amendments in conformity with my presentation, to strengthen and improve this dramatic landmark legislation and work out the substantive content problems of concern.

Thank you for the opportunity to speak to you this morning and I will be available to answer any questions you may have.

**STATEMENT OF JAY G. HIRSCH, M.D., PROFESSOR OF PSYCHIATRY,  
UNIVERSITY OF ILLINOIS, ON BEHALF OF THE AMERICAN  
PSYCHIATRIC ASSOCIATION AND THE AMERICAN ACADEMY OF  
CHILD PSYCHIATRY**

Dr. HIRSCH. Thank you, Mr. Chairman. It is a double pleasure to provide testimony in front of your committee. Members of this committee, and other fellows who have had the fortitude to remain here, it is very nice to be here.

I am a medical practitioner. I am a medical teacher. I am a professional who has been committed with schools and special education districts, and organizations providing services to children with problems.

Mr. SIMON. If I may interrupt you just for a moment. I hate to say it, but they have just signaled another rollicall.

Dr. HIRSCH. Incidentally, I do not intend to read this.

Mr. SIMON. We will enter your statement in the record, and if you can give us a summary, we will try to get a few questions in before we head over for the rollicall.

Dr. HIRSCH. Do I have time to tell you a couple of stories?

Mr. SIMON. You go ahead. I always have time for a couple of stories.

Dr. HIRSCH. This testimony speaks for itself, and you will be able to read that. Let me tell you a story, and at about this time of the morning, you need to hear one. It is a story about Johnny.

We in child psychiatry hear a lot of child-rearing stories, and this is one about Johnny who is 6 years old, and came home late one night for dinner by about an hour. His mother said, "Johnny, where have you been?" Johnny said: "Well, mom, I know that I am not supposed to do this, but I was out in the woods with Mary," she is the next door neighbors' kid. "We just lost track of time."

The mother said, "I have told you before that you are not supposed to do that, Johnny, but because you have told the truth, here is a cookie." Naturally the next night, Johnny was 2 hours late. Then he was 3 hours, and 4 hours late, and by the end of the week it was 10 o'clock when the screendoor slammed, and Johnny was coming in.

At this point, the father got out of his easy-chair and ran into the kitchen. There were pots and pans banging, and the refrigerator opening. The wife went in there, and she said: "George, what are you doing there? This is the first time that you have been in the kitchen in 15 years." He said: "I am going to fry this kid some eggs, he can't keep this up on cookies." [Laughter.]

Dr. HIRSCH. What is the moral here? I did not tell this story just because we needed it at this time of the day, but I would like to state what I think is going on here, and what the application of this story is to 94-142.

Schools have been given a complex assignment, with overt and covert messages, which are perhaps inevitably confusing. It is difficult to serve more than one master, and to have more than one mission. These tasks may have been given to the schools well before they could reasonably be expected to handle them.

Educators, and special educators need clues from the community that the things they are doing are what the community wants them to do. They also need all the help and the resources that can be mustered to do the job well. If we don't do something quickly to put some limits on the assignment, they, like Johnny, will burn out from fatigue and exhaustion.

My message here today is that we have serious problems of an exaggerated view of what this law can do, partly because of the misunderstandings that have come out of the reading of the law, but partly because we are involved in a very, very intense struggle at the State and local level for agencies to dump responsibilities on other agencies if they have the slightest opportunity to do so.

I know, Mr. Simon, that you have been very active in State government in our home State. I know you know how departments of mental health, and departments of corrections, and departments of welfare, offices of education, and other State departments have difficulty working together. When, in fact, you get the heads of those departments together, it is very clear that the name of the game is, "I must preserve my own budget at all costs. I must, whenever possible, say, it is your responsibility to serve, and not mine."

That does not square with the intent of this law, because the intent of this law, I am certain, is benevolent. But when we get down to the grassroots issues of how this is implemented at the local level, in those 16,000 school districts that have been talked about today, we have a very different matter.

I am having a very unreal feeling being here and talking to this committee today, and remembering that on Monday I was in a special education district, talking to children, staff and families. There is something that does not jibe with these experiences.

Mr. Simon. Let me interrupt you for just a moment. If you don't mind, after I leave, I would ask that you answer some questions for the record from our staff, so that we can get more of what you have to contribute.

I am interested in your phrase that there are limits on the assignment. What kind of limits are you talking about.

Dr. Hirsch. There are three categories of disability which I think strain the limits of the system. In two of them, we have low incidence handicaps and high incidence handicaps in terms of numbers.

The profoundly mentally retarded who are in need of custodial services are a group that, in a sense, strains the limits of an educational system. If one talks about the interface problems between education and health and mental health, the profoundly mentally retarded group is one group where it is very difficult to see that only an educational program will suffice.

Another is in the case of the severely physically handicapped child. Do I have 2 minutes to tell you about one case?

Mr. Simon. Yes, 2 minutes, and then I will have to head over.

Dr. Hirsch. I walked into a classroom of physically handicapped children, and a child was having a seizure. This is a child who had been in the program for 4 years. This school had served this child with yeoman service while he degenerated from a progressive neurological disease which ultimately would lead to his demise.



He was blind, partially deaf, profoundly retarded, and sitting in a public school classroom having seizures. The nurse was sucking out his secretion, and after I helped out, and his color came back, I asked the nurse how many of these he was having. She said, "He is having from four to eight of these every school day."

I said, "Do you know that this child is going to die here one day?" She said, "Yes; I know that." I asked, "Does anyone on the staff know it?" She said: "They prefer not to look at it."

Now, these educators have been serving this child for 4 years with an unbelievable commitment, a human commitment that is most touching. My concern was, what was going to happen to the other 75 children in that program on the day that that child died in the classroom.

We called a staff meeting. We had a discussion about this. We were to bring it to a larger staff meeting with the parents, where ultimately, as the consultant to the school, as the medical consultant to this program, I was going to recommend that this child could no longer be served by this program.

In the meantime, the child fell out of his bed, broke a leg, was hospitalized, and died during a seizure in the hospital, thereby eliminating the need for the school to have to make the decision not to include him in their program.

I submit that we must define the limits of the system in order to be able to define the services within the system. I have no quarrel with the decision that those people made, but I do think that we have a very, very complicated problem to deal with, when we are dealing with children who have these kinds of difficulties.

Mr. SIMON. If you will, in responding to staff questions, for the record, also indicate: One, if you think present regulations cause problems, and let's state specifically that case where the present regulations mandate that—

Dr. HIRSCH. No; they don't.

Mr. SIMON. So that is local regulations.

The second fundamental question that we have to face is: Are there any statutory changes that are needed so that 94-142 can more usefully serve?

My apologies, again, for ducking out, but it is one of these bad days.

Dr. HIRSCH. This is a true story about a 28-year-old mother with six pregnancies and five living children. The family is a white family who lives in a pocket of suburban poverty in a northern industrial State. The mother has 5 living children ranging in age from 3 to 10. Four of the five children are in special education programs. The family, by the way, is not on welfare. The father has a regular job, but the family is poor. It will become clear to you why the family is poor in just a moment.

The 10-year-old has been diagnosed as having mild mental retardation, and is in a special education self-contained classroom. The 9-year-old, who is the only one in regular education, has grand mal seizures, which are fairly well controlled on medication. The 8-year-old is hydrocephalic, and has had believe it or not, 22 shunt procedures in his 6 years to attempt to relieve the accumulation of fluid on the brain. The 4-year-old is a child who has speech delays and language delays, some motor problems, and is in an early childhood special education class.

I, and a team of interdisciplinary people who work for the special education district with which I am affiliated, were asked to see the 3-year-old who has multiple congenital handicaps, including syndactyly, the joints of the fingers, he was born with them together, and multiple speech delays, and motor delays, partly a result of his orthopedic problem. The last child in the family died a year ago, about a month after birth, of multiple defects.

This clearly is a high risk family. This is an overwhelmed and well-meaning, poorly educated mother, who is trying to do her best under the circumstances. This family needs a whole array of medical diagnostic and treatment facilities. They need massive educational input. They need child welfare help. They need a variety of social and psychological supports, which would be too long for me to go into.

I submit that for us to see this as an isolated problem of special education, to which we offer public law 94-142 as an isolated responsibility to special education is unfair. It does not square with the facts of the situation. It does not seem to make any sense.

There are about 250 youngsters in the State of Illinois who are known to the five or six agencies that I mentioned earlier to Mr. Simon, who would be defined as ultimately dependent, delinquent, psychotic adolescents, who themselves have had a history of child abuse, who have been in multiple foster homes, who have been truants, and have been runaways, who often are drug addicts, who are often in trouble with the police.

They cannot be contained by anyone, including the special education districts, including special education facilities of the intense kind. Many of these people need intensive residential treatment and need psychiatric care, including drug therapy as well as psychotherapy.

The children often fall between the cracks of agencies in the following way: The department of mental health says: He is not crazy enough to stay in the hospital. The special education district says: He is too crazy to stay in the classroom. The Children's and Families' Services Agency says: He cannot be contained in a foster home. The people in the community say that he is a menace to the community, and we have to get him out of there.

Ultimately, the system which serves these youngsters will be the courts and ultimately be the correction facilities, because that is where these children end up.

It is not possible for us to define these children as being the responsibility only of the special education district, of the educational agency. For these 250 who were seen, as I said, hardcore multiagency children in our State, for every one of those, I am quite certain that we have 10 or 20, I have no idea of the numbers, of severely disturbed adolescent youngsters who require a spectrum of services, an array of services that go far beyond those which are defined under the related service in 94-142, and who require the integration of multiple agencies, multiple disciplines, and multiple input, if we are going to have a chance at all of serving them and their needs.

Our message today is a message of integration. It is a message of cooperation. It is a statement that says, we fellow professionals who are serving children and families want to work together with special education people, and with a variety of other disciplines who are required,

to be able to once and for all develop an integrated plan of services for children in this country that will be meaningful, and will be effective. That is our message today.

Mr. BIRCH. Thank you very much, Dr. Hirsch.

If I might, Mr. Kramer, Chairman Simon asked that I put a question to our witness.

Mr. KRAMER. Please go ahead.

Mr. BIRCH. I wonder what suggestions you might have for the subcommittee, Dr. Hirsch, as we examine the regulations and examine the statute to find what kinds of changes may be needed either in the statutory language, or clarification of the regulations that would alleviate some of the problems that you might be experiencing in the work that you are doing.

Dr. HIRSCH. We have several suggestions in that regard. Our point would be, again, the question, how do we make it possible for the law to provide more and better services for a larger number of children and their families who need them.

Very specifically, we feel that we need a better definition of related services. It is a very confusing aspect of the regulations to read about related services, particularly the term "counseling." It is not clear whether counseling includes medical psychotherapy, psychiatric treatment, if you will, or whether it does not.

In our formal testimony we make a statement saying that there was very little discussion about that in the drawing up of the law, and that this had been an issue since the law came out. We feel that we would like some clarification on this, either by ruler or regulations, or by amendment. It is not clear which.

It does require some way of attempting to clarify whether or not medical psychiatric personnel can have an input into the IEP and its implementation.

Our interpretation of the regulations is that at the diagnostic level, we do have input. I, for one, am in an unusual situation, but I, for one, work very actively with the special education district, and am very much a part of the IEP evaluation and planning. I don't think that that is true in very many places in the country. But I know that it is possible, given a receptive school system, and a psychiatric person who is interested in serving in that capacity.

At the treatment level, it is very unclear. Clearly medical treatment seems to be excluded. On the other hand, medical psychotherapy would appear to be in that somewhere in-between land, between medical treatment, on the one hand, which is excluded, and counseling, on the other hand, which is included in the law. So we would like to have some clarification on that.

We would like to have some formal inputs prescribed in the rules or regulations for medical personnel of a variety of disciplines, as well as mental health personnel, including psychiatrists at the planning level, both State and local levels. This is not prescribed in the rules and regulations, and we feel that this is an omission. We feel that the developmental approaches of physicians, pediatricians, and child psychiatrists would be a very welcome addition to the ways in which we look at the development of IEP's. We feel that there is no formalized entree for that kind of professional input at the present time.

We need clarification, particularly in regard to the issue of payment of the free appropriate education. This is paragraph 121(a)301:

Each State may use whatever State, local, or Federal sources of support are available in the State to meet the requirements of this part.

That is the free appropriate education.

For example, when it is necessary to place a handicapped child in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement.

If we could change the wording of that to say "must," instead of "could," it would communicate the spirit of the cooperative thrust that we are suggesting.

The next section under that paragraph:

Nothing in this part relieves an insurer, or similar third party, from an otherwise valid obligation to provide or to pay for services provided to handicapped children.

Now, across the country, this has not been implemented in this way. There are three party payers who are refusing to pay for services that presumably are the responsibility of the local LEA under 94-142.

The next paragraph is the one that I want to get to, 121(a)302:

"Residential placement. If placement in a public or private residential program is necessary to provide special education and related services to a handicapped child, the program, including nonmedical care, and room and board, must be at no cost to the parents of the child."

The emphasis is on "no cost to the parents of the child."

This has been interpreted by many places in the country, as meaning "at cost to the LEA, or the SEA." It requires clarification that what we need is some system of shared funding and shared responsibility among all of the agencies having responsibility for these children, not just the educational establishment.

We feel that some modification of this particular aspect of the rules and regulations is needed.

Mr. BIRCH. Because I know that that particular issue is a special problem in Illinois right now, could you bring us up to date on what has transpired in the past several weeks, since the Governor's commission has refused to pay the extra costs, particularly for placing children out of State in private institutions?

Dr. HIRSCH. I am sorry, I don't have the up-to-date thing on that. Are you referring to the rate review board?

Mr. BIRCH. Yes.

Dr. HIRSCH. There has been established, for those of you who are not from Illinois, a rate review board by the Governor, which is to review the costs of residential services for children in a variety of facilities, both within and without Illinois.

They are going through mighty struggles, and I don't know the current circumstances, and I am afraid I would be misleading you if I would try to tell you what I have heard 2 weeks ago.

Mr. BIRCH. Your response has been very helpful, and I appreciate the time that you have taken to consider how some of those regulations might be made more effective.

Dr. HIRSCH. In parting, I would like to say that both of the organizations which I represent today, the American Psychiatric Association and the American Academy of Child Psychiatry, hope that we might

be able in writing to submit further recommendations, if that would be acceptable to the committee.

Mr. BIRCH. The subcommittee would appreciate that; please do.

Dr. HIRSCH. We hope to work cooperatively with you because we see this as a very exciting opportunity to be able to serve children and families better.

Mr. BIRCH. Thank you very much, Dr. Hirsch. Mr. Kramer?

Mr. KRAMER. Doctor, I just have a couple of questions; then I will let staff ask their questions.

If I might, our committee only has jurisdiction over educational matters, so in dealing with the concept of something like related services, we have to look at that definition within the context of what the committee's jurisdiction is.

I am not sure from just reviewing your testimony briefly whether or not you are advocating an expansion of that definition, or a retraction. I understand your concern that there is some vagueness there, which makes it unclear.

Many have testified to that extent that they feel what ought to be done in terms of related services is unclear. Does it mean the whole environment of the student, or does it mean all those things that directly pertain to his educational needs, or her educational needs?

I understand the concept that you are advocating, but what I think you are saying is doing it in a cooperative sense with the other disciplines that would be involved here, rather than put as the responsibility of the school board to make sure that all those services are given.

I guess what you are really saying, if I understand you correctly, you are asking for an expansion of how the child is dealt with, but maybe at the same time you are asking for a retraction in terms of the definition of the related services as dealt with specifically by the local boards of education. Am I misinterpreting what you are saying or not?

Dr. HIRSCH. I am not sure whether you are or not; let me see if I can restate my position, and maybe that would clarify it.

Our organizations have not settled the issue of whether they want medical psychotherapy included as a related service, if that is what your question is. We do not have an official position on that yet, because, frankly, there is disagreement among our membership as to whether that would be desirable or undesirable.

Mr. KRAMER. What are the arguments?

Dr. HIRSCH. The arguments against medical psychotherapy being included there would be that we understand that the education dollar is extremely limited, and that we do not want to put an additional drain on the education dollar by mandating this, when we in fact know that schools are going broke under 94-142 anyhow, and before that. That would be one statement. I happen to favor that position.

There are others in our organizations who say, if we can get this mandate, this is a way of getting services for kids who otherwise would not be able to have services provided for them, because there would not be any way of paying for them.

I don't know how our organizations are going to settle their official position on that, but I think that there are good points to both positions.



In regard to the related services, I am in favor of a very broad definition of what related services consist of, and I would not recommend a limitation on that, but I do think that it makes some sense that we not ask the schools to pay for a total program of medical services. I am not recommending that we open up that box, and make this a health law, rather than an educational law, because obviously that is difficult.

You get into very difficult situations in this, though, the child in the physically handicapped program who has a wheelchair to get around in school, in order to be able to maneuver himself into the classroom, and get from place to place under the provisions of the least restrictive alternatives, but that child does not have a wheelchair at home. Do we say that the wheelchair has to sit in the school, or do we say that the school's wheelchair can go home with him, so that he can use that out in the community.

I don't know the answers to these, but these are the kinds of issues that you get into. The issues of when is mental health care psychiatric care, and when is it education. It is an extremely difficult definitional one when you have the child in front of you.

There are many children whose programs just require a variety of inputs from a variety of disciplines, some of which happen to be from medical practitioners like myself, and also psychiatrists. Some of which are not. It is very difficult to say when you are actually dealing with the child in the room, and the child is disturbed, and you are dealing with a family that needs input.

These are very difficult definitional issues. What in fact happens at the grassroots is that 16,000 school districts define this in 16,000 different ways. If you then multiply it by the number of children that they have in their school districts, it depends on who the children are, and whether the parent happens to sit on the board of education, or they happen to be influential in the community, and the definition is changed.

I understand that these are political realities, and they are part of life, but this is the complexity that we are dealing with.

Mr. KRAMER. Thank you.

I don't know how much experience you have had with these problems. I know that you have treated, and come into contact with these children that are in need of these numerous kinds of mental health services, in addition to educational assistance. Do you have any way to judge what kind of a percentage of the school population we are talking about, which you feel needs the kind of total, environmental, all-inclusive type of service to really be in a position where they can be educated.

Do you have any basis on which to form a judgment?

Dr. HINSCH. The Joint Commission on Mental Health of Children, back in 1969 and 1970, estimated that it would be roughly 10 percent of the school population that had some level of emotional disturbance. It does not answer your question, but that is about as close as I can get.

I will tell you this very quick anecdote. We try to limit what the nature of the problem is. A youngster comes to me, and I am a child psychiatrist, in order to evaluate his specific learning disability, namely, he cannot learn to add 2 and 2 together and get 4 at age 10.

although he can read perfectly well, and is a very verbal child, and his other development is doing quite well.

The child comes in to see me, and we are talking. Then I look at my watch, and I thought that we had better get down to business. I said: "Johnny, I understand you have some difficulties in school." He said, "Yes." I said, "I understand the difficulties have to do with math." He said, "Yes."

I said, "Do you mind if I give you some problems?" He said, "Doc, I have got lots of problems, which ones do you want to talk about?"

One can define Johnny's problems as being a specific learning disability, namely, he cannot learn how to add 2 and 2 and get 4. But Johnny had a string of other things that he wanted to talk about, which also related to his life, like his parents' marriage, and what was going on in his community, the drug abuse, the dealers on the street, and so forth, which also impinge upon his life.

It is very simplistic to take the idea that the IEP is going to plug in on the three R's, and the child's status vis-a-vis his learning the three R's, and think that we are talking about real people, because real people do not come in those packages.

They come in a very complicated biological, psychological, and social package, which when I am talking to the medical students, I say to them: We would like to say that these three factors are separate, like this, and we can identify what is biological, and what is social, and what is psychological. But, in fact, when we see them in life, they look like a Ballentine beer sign. That is the way they are. They are all enmeshed like scrambled eggs. It is very difficult to tell what is educational and what is mental health. It is hard to tell what is mental health, and what is physical health, because they all relate to each other.

When we are programing for children, we are programing in a very, very complicated kind of way to serve people in real life, which offers this kind of complexity.

Mr. KRAMER. Thank you.

Ms. SNEIDER. Dr. Hirsch, in your written statement, you pointed out the need for psychiatric and medical input at the outset in IEP planning. Then in your oral testimony you went on to illustrate through the example of the epileptic child the fact that in Illinois you use a diagnostic team to go in, while the child is in the classroom, and evaluate that particular child's needs.

Dr. HIRSCH. You were taking two aspects of my experience from two different stories and putting them together.

Ms. SNEIDER. I am trying to relate the two.

Dr. HIRSCH. Within the special education district, I have multiple roles. One of them is to serve with an interdisciplinary team at the diagnostic level in developing IEP's for children. Another one of them is to serve as the medical consultant to a physically handicapped program, which has children already in a special education program.

The child that I was talking about, who was having seizures, and who ultimately died, that example was a child who was in a program to which I belong as their medical consultant.

Ms. SNEIDER. Those were 94-142 children that had access to this program that you are talking about?

Dr. HIRSCH. In that particular school, the special education organization in which I serve, not only do we have psychiatric input, but we have pediatric, and neurological input, and we also have medical students and residents who are spending time in those places with faculty people like myself, so that they can learn how to do that when they get out into practice, then we can multiply the cadre of people in our field who know how to do this, know how to work cooperatively and collaboratively.

However, we are a rarefied kind of situation. I don't think that there are very many situations like that across the country.

Ms. SNEIDER. I believe that is correct, and I would like to pursue that for the moment.

I would take it, then, that you have a medical consultant diagnostic team ongoing review, if you will, of 94-142 children in their school setting. From the testimony the subcommittee has heard to date, this ongoing review appears to be unique.

With regard to the review, and the example of the epileptic child, if the child had not died and had continued on in school you mentioned you were ready to approach the parents and explain to them that the child might well die in the school. Is that correct?

Dr. HIRSCH. I think that the parents knew that.

Ms. SNEIDER. What options would the medical consultant diagnostic team have had vis-a-vis the school as far as getting that child out of the school setting and into a more restrictive environment? That is the first part of the question.

The second part of the question is, had the child not been epileptic and been in danger of dying, would the medical consultant team in another situation have had the opportunity to suggest to the school that an additional array of services be made available to the child?

Dr. HIRSCH. Absolutely; a huge array of services had already been provided for this child, including one-to-one full-time nursing care, while he was in school, and including a part-time person who rode on the bus home with him. So there was an unbelievable amount of commitment to this family.

I know this sounds like a soap opera, but this is life. This family had two children who had this congenital defect, this degenerative disease, and a brother of this youngster was in a nursing home already. That was part of the commitment that these people in the school had, because they had seen the brother deteriorate, and had already eliminated him from the school because he needed so much nursing care that there was no way that they could provide the brother's nursing care.

The second youngster, who was a year and a half younger, and who began to degenerate several years after his brother, had been in the program, admitted as a youngster who was walking and talking, and who had a reasonably good intelligence. In the course of the 4 years, these people had witnessed this child's degeneration, and because this is human, these people were so involved with the care of that child that when I raised the question, "Is this the sort of thing that we should be doing?" They got furious with me. In fact, the one teacher who was his teacher has not talked to me since, because she felt that I had behaved toward this family and this child in ways that were unconscionable.

My concern was, what happens with the 75 other kids when they have to witness his demise, and some of those other children were also in some various stages of being terminal with various other neurological diseases. The issue is that you have to make very hard choices. You have to decide whether the program for one child is going to interfere with the program for these others, who also have special needs.

I know that this is an extreme example, and it sounds like it only happens once. But those realities, perhaps not so dramatic because it does not result in death, but those realities are a part of every IEP proceeding.

If you make a decision to send a child to a classroom, you are deciding on the basis of what are the characteristics of that teacher, what is the nature of the classroom composition, what will be the individual curriculum for each one of those students.

No school district has an infinite array or spectrum of services. You have to make choices. We have three classrooms of this kind in this country. Take your choice, which one is this child going to go to. It is a fantasy to think that we have an infinite spectrum of individualized opportunities for every single child. It does not happen. It cannot happen. We would go broke.

Ms. SNEIDER. Would the impetus for the array of services come from your organization, or would it emanate in the school?

Dr. HIRSCH. It would come from the school, and the school district to which I am referring is eminently accessible for anything that the child needs. Obviously, these people are committed.

Ms. SNEIDER. You said that this is unique.

Dr. HIRSCH. No; I don't think that the commitment is unique. I know of many school people whose commitment is very impressive, and who are really interested in serving children. I don't put school people down.

One of the things that I would like to point out, and I know the Congress would have to come out to the grassroots to see this. There is a phenomenon called "burn out," which I know you know about in congressional circles, but that happens in school, and it happens with families when you are dealing with handicapped children in ways that are unbelievably overwhelming.

When you sit in the classroom with these children all day long, you know you have a job. I am just talking about physically handicapped children. I am talking about the whole array of handicaps as we have defined it under the 11 categories of 94-142, every single one of those carries with it the burnout issue.

One of the ways in which the school district uses me, by the way, is to deal with staff, and to support staff on that very concern. So we talk about death and dying, and we talk about stresses of the job.

Mr. BRACH. Thank you, Dr. Hirsch. Your testimony will be very helpful to our subcommittee as we consider the implementation of the law.

That concludes our oversight hearings on Public Law 94-142. Thank you.

[Whereupon, at 12:45 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]